

PARL. PAPERS
FOR REFERENCE ONLY.





ARRANGEMENT
OF
THE PAPERS
PRINTED BY ORDER
OF
THE HOUSE OF COMMONS,
Session 1837,
(N° 1. to N° 547.)
IN FIFTY-FOUR VOLUMES:

SPECIFYING
THE NUMBER OF VOLUMES;
AND CONTAINING
THE TITLE PAGES, TABLES OF CONTENTS, AND OUTSIDE LABELS,
TO EACH VOLUME;
WITH
A NUMERICAL LIST OF THE PRINTED PAPERS;
AND
A GENERAL ALPHABETICAL INDEX TO THE WHOLE:

TOGETHER WITH
A TABLE AND INDEX OF THE PUBLIC GENERAL ACTS
PASSED IN THIS SESSION.

31 January—17 July 1837.

7° & 8° WILL. IV. & 1° VICT.

FIFTY-FOUR VOLUMES.

VOLUME.

1.—BILLS, PUBLIC:—FOUR VOLUMES.

- I.—(1.)—Acts of Parliament; Admiralty Jurisdiction; Arbitration; Army; Assessed Taxes; Attornies and Solicitors; Bank of Ireland; Bankruptcy; Bankruptcy (Scotland); Bankrupts (Ireland); Beer; Benefices, Plurality; Bills of Exchange; Births; Concealment of; Births, Marriages, and Deaths; Marriages; Burghs of Barony (Scotland); Charities; Ecclesiastical Appointments; Suspension Bill; Church in Ireland; Civil Bill Courts; Common Fields; Common Law Courts; Conveyance of Lands; Copyright; Corn; Coroners; Coroners' Inquests.
- II.—(2.)—Corporations; County Boards; County Bridges; County Rates; County Treasurers; Coverture, Law of; Criminal Court; Criminal Law; Crown Allotments; Crown, Demise of.
- III. (3.)—Debt, Imprisonment for; Dublin Police; East India Company; Elections; Bribery, &c.; Exchequer; Exchequer Court (Scotland); Fermanagh Baronial Subdivisions; Game; Grand Juries (Ireland); Hackney Carriages; Highway Rates; Infants; Judges' Opinions; Judicial Factor (Scotland); Jury, Trial by (Scotland); Letters Patent; Liberty of the Press; Limitation of Actions; Loan Societies (Ireland); Lord's Day; Malt; Medical Charities (Ireland); Metropolis Improvement; Mint; Newark Estate; Penitentiary Milbank; Poor Laws; (Ireland); Post Office.
- IV.—(4.)—Prisons; Public-house Regulation; Public Walks; Queen Anne's Bounty; Railways; Rating of Tenements; Records, Public; Rolls Estate; Royal Military Canal; Salmon Fisheries; Secular Jurisdiction; Session, Court; Sheriffs' Courts; Sheriff and Burgh Courts (Scotland); Shipping; Shire Halls; Slave Trade; Small Debts; Spirits; Sugar; Tenants for Life; Tenements, Recovery of; Theatres' Regulation; Tithes; Trading Companies; Turnpikes; Uniformity of Process; Vagrants; Vestries; Waste Lands; Wills; Works, Public (Ireland).

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- VIII.—(4.)—Education (Ireland) Lords' Reports:—(Parts I. and II.)
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AND,

6.—A GENERAL ALPHABETICAL INDEX TO THE WHOLE.

B I L L S,

PUBLIC:

FOUR VOLUMES.

—(1.)—

ACTS OF PARLIAMENT

TO

CORONERS' INQUESTS.

Session

31 *January* — 17 *July* 1837.

VOL. I.

1837.

B I L L S :

1837.

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7 July 1837.—1 VICT.



A

B I L L,

INTITULED,

AN ACT for correcting mistaken References to His late Majesty in Acts of this Session of Parliament.

Note.—The Figures in the Margin denote the Number of Folios in the Written Copy.

- 1 **W**H **HEREAS** several Acts were agreed upon by the Lords Preamble.
Spiritual and Temporal, and the Commons, in this present
Parliament assembled, during the reign of his late Majesty King
WILLIAM the Fourth, of blessed memory, which had not received
the Royal Assent at the time of the demise of his late Majesty:
And whereas several other Acts and Bills which were first moved
during the reign of his late Majesty are yet under the consideration
of Parliament: And whereas in some of the said Acts and Bills are
Recitals, References and Enactments, which in words refer to his
Majesty and to Acts of his Majesty's reign, which Recitals, Re-
ferences and Enactments were proper at the time when the said
2 Acts and Bills were first moved, but have become incorrect by
reason of the Accession of our Sovereign Lady VICTORIA, the Queen
that now is: And whereas it is expedient to guard against any doubt
which may therefrom arise; **BE it therefore Enacted**, by The
QUEEN's most Excellent MAJESTY, by and with the Advice and
Consent of the Lords Spiritual and Temporal, and Commons, in
this present Parliament assembled, and by the Authority of the same,
488. **THAT**

Wrong
References
not to invali-
date Acts of
the present
Session.

THAT every Act of this present Session of Parliament which shall have received the Royal Assent subsequent to the demise of his late Majesty, and in which any Act of Parliament passed in the reign of his late Majesty shall be referred to, either by way of Recital, Reference, Enactment, or otherwise, as if his Majesty still continued to reign, shall be taken to refer to every such last-mentioned Act of Parliament correctly as of the reign of his late Majesty, and that no such incorrect or mistaken Reference as is hereinbefore recited shall in anywise impeach or affect any Act of Parliament passed or to be passed in this present Session of Parliament, or any Clause or Provision thereof.

Acts of Parliament References.

B I L L,

INTITLED,

AN ACT for correcting mistaken References
to His late Majesty in Acts of this Session of
Parliament.

*Ordered, by The House of Commons, to be Printed,
7 July 1837.*



A

B I L L

To authorize the establishing a Court or Courts with Criminal and Admiralty and Civil Jurisdiction in China.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS it is expedient, with a view to the preservation of good order among Her Majesty's subjects trading or resorting to the dominions of the Emperor of China, and for the purpose of promoting the amicable intercourse between such subjects of Her Majesty and the subjects of the Emperor of China, and for the prevention of disputes by which such intercourse might be interrupted, that a British Court or Courts with Criminal and Admiralty and Civil Jurisdiction should be established in the said dominions, or in the vicinity thereof; **B**E it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT it shall be lawful for Her Majesty, by any commission or commissions under Her Royal Sign Manual, or by any Order or Orders in Council, to establish a Court or Courts of Justice, with Criminal and Admiralty and Civil Jurisdiction and Authority, within any part of the dominions of the Emperor of China, or in the ports or havens thereof, or within *Three* Leagues of the coast, for the trial of all offences committed by Her Majesty's subjects within the said dominions, or in the ports or havens thereof, or on the high seas, within *One* hundred Miles from the coasts of the said dominions, and also for the deciding of all civil cases which shall be brought before such Court or Courts on any subject, matter or thing relating to trade or commerce arising within the jurisdiction of such Courts, with right of appeal, either to Her Majesty in Council, or to any of Her Majesty's Supreme Courts of Justice in the East Indies, as Her Majesty

Preamble.

1.
Her Majesty may establish Courts with Criminal, Admiralty and Civil Jurisdiction in China, and by Order in Council make Rules, &c. for regulating such Courts.

may be pleased, by any Order or Orders in Council, to appoint ; and it shall be lawful for Her Majesty to appoint a Judge or Judges and proper officers for such Courts, and to establish forms of proceeding in all matters criminal and civil coming under the cognizance of such Courts ; and also, by any Order or Orders in Council, and either by reference to the provisions of any Act or Acts now in force for administering justice in the East Indies, or otherwise as may be necessary or expedient, to make and issue any rules, regulations, directions and restrictions touching and concerning the conduct, rights and duties of Her Majesty's subjects trading or being within the jurisdiction of such Courts, and touching and concerning the exercise of such Criminal, Admiralty and Civil Jurisdiction, with a view to the enforcing such rules, regulations, directions and restrictions ; and it shall also be lawful for Her Majesty, by any Order or Orders in Council, to authorize the sending out of the jurisdiction of the said Courts, any person who shall be duly convicted of having wilfully violated any of such rules, regulations, directions or restrictions ; and it shall also be lawful for Her Majesty, by any Order or Orders in Council, to impose penalties, forfeitures and imprisonment for any breach of any such rules, regulations, directions or restrictions, with reference to any offences or cases triable by such Courts ; which penalties, forfeitures and imprisonment shall be enforced in such manner as in the said Order or Orders in Council shall be specified ; and all such Orders in Council shall have the full force and effect of laws, in the same manner as if they were enacted in and made part of this Act.

2.
May by Order in Council regulate proceedings when Subjects of China, or of other States, require their differences with British Subjects to be decided by these Courts.

AND whereas cases may arise within the jurisdiction of the said Courts, wherein the interposition of such Courts may be required by the subjects of foreign powers trading to the said dominions, or by the subjects of the Emperor of China, in the determination of differences or disputes between such persons and British subjects ; BE it therefore Enacted, That it shall be lawful for Her Majesty, by any Order or Orders in Council, to make and issue in the same manner as afore-said directions and regulations for the guidance of such Courts in such cases.

3.
Orders in Council to be published in London Gazette, and laid before Parliament.

Provided always, and be it Enacted, That every Order in Council issued by the authority of this Act shall be published in the London Gazette, and shall be laid before both Houses of Parliament, and shall not be binding and effectual until Six Months after it shall have been so laid before both Houses of Parliament.

4.
Power to appoint Consuls, &c.

AND whereas by an Act passed in the third and fourth year of his late Majesty King WILLIAM the Fourth's reign, intituled, " An Act to regulate the Trade to China and India," authority was given to appoint Superintendents of Trade to China ; AND whereas it is expedient to authorize the appointment of other officers ; BE it therefore

fore Enacted, That it shall be lawful for Her Majesty, by any Commission or Commissions, or Warrant or Warrants under Her Royal Sign Manual, countersigned, by one of Her Majesty's Principal Secretaries of State for the time being, to appoint instead of or in addition to
 5 such Superintendents as aforesaid, and for the same purposes, a Consul-General, Consul and Vice-Consul, or officers not exceeding *Three* in number, under any other designation which Her Majesty may deem expedient, and with such powers and authorities as to Her Majesty may seem meet.

10 And be it further Enacted, That all the provisions of the aforesaid Act which related to such Superintendents as aforesaid shall be equally applicable to every such Consul-General, Consul, Vice-Consul or other officers appointed in pursuance of this Act; and all acts, matters and
 15 officers, shall be of equal validity and effect as if done by such Superintendents as aforesaid.

5.
 Consuls to have the power of Superintendents.

And be it Enacted, That if any suit or action shall be brought against any person or person for any thing done in pursuance of this Act, or in pursuance of any orders or regulations made by virtue
 20 thereof, then and in every such case such action or suit shall be commenced or prosecuted within *Six* Months after the fact was committed, and not afterwards, except where the cause of action shall have arisen in any place not within the jurisdiction of any of Her Majesty's Courts having Civil Jurisdiction, and then within *Six* Months after the plaintiff
 25 or plaintiffs, defendant or defendants, shall have been within the jurisdiction of any such Court; and the same and every such action or suit shall be brought in the county or place where the cause of action shall have arisen, and not elsewhere, except where the cause of action shall have arisen in any place not within the jurisdiction of any of Her
 30 Majesty's Courts having Civil Jurisdiction; and the defendant or defendants shall be entitled to the like notice, and shall have the like privilege of tendering amends to the plaintiff or plaintiffs, or their agent or attorney, as is provided in actions brought against any Justice of the Peace for acts done in the execution of his office, by an Act passed in
 35 the twenty-fourth year of the reign of King GEORGE the Second, intituled, "An Act for the rendering Justices of the Peace more safe in the execution of their Office, and for indemnifying Constables and others acting in obedience to the Warrants;" and if the plaintiff or plaintiffs shall become nonsuit, or discontinue any such action after the defend-
 40 ant or defendants shall have appeared, or if a verdict shall pass against the plaintiff or plaintiffs, or if upon demurrer judgment shall be taken against the plaintiff or plaintiffs, the defendant or defendants shall and may recover *Treble* Costs, and have the like remedy for the recovery thereof as any defendant or defendants hath or have in any cases of law.

6.
 Regulating Suits and Actions brought against persons for any thing done under this Act.

Courts in China.

A

B I L L

To authorize the establishing a Court of
Courts with Criminal and Admiralty and
Civil Jurisdiction in China.

(Prepared and brought in by
*Lord Viscount Palmerston and Sir John
Hobhouse.*)

Ordered, by The House of Commons, to be Printed,
27 June 1837.



A

B I L L

To amend an Act of the Fifth Year of His Majesty King GEORGE the Fourth, for consolidating and amending the Laws relative to the Arbitration of Disputes between Masters and Workmen.

[Note.—The Word printed in *Italic* is proposed to be inserted in the Committee.]

WHEREAS an Act was passed in the fifth year of the reign of his late Majesty King GEORGE the Fourth, intituled, “An Act to consolidate and amend the Laws relative to the Arbitration of Disputes between Masters and Workmen :” And whereas it is provided by the said Act, that all complaints under the same by any workman for any cause, except as to bad materials, shall be made within Six Days after such cause of complaint shall arise ; but the said period of Six Days has been found too short for the purpose thereby intended ; ~~BE it therefore Enacted~~, by The QUEEN’s most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the same be extended to *Fourteen* Days.

Preamble.

AND whereas it is enacted by the said Act, that various differences under the same shall be subject, as therein mentioned, to the adjudication of any Justice of the Peace or Magistrate of any county, riding, division, stewartry, barony, city, burgh, town or place within which the parties reside : AND whereas many cases have arisen where no Justice of the Peace or Magistrate could be found who has jurisdiction where both of the parties differing as aforesaid reside ; in consequence

1.
Period for making Complaints extended.

2.
Justices having Jurisdiction where the Party complained against resides, to have Jurisdiction in the matters of the said Act.

sequence whereof, it has been doubted whether the above beneficial enactment can in such cases take effect; and for the remedy thereof, it is necessary that the jurisdiction and powers which are by the said Act conferred on the Justices or Magistrates of the district where both parties reside shall in future be exercised by the Justices or Magistrates of the district where the party complained against resides; BE it Enacted, That in the place of the Justices or Magistrates of the district where both parties reside, the Justices or Magistrates of the district where the parties complained against reside, shall have the said jurisdiction and powers; and whatever acts and duties are by the said Act required to be done by the first-mentioned Justices or Magistrates, or any one of them, shall be done by the last-mentioned Justices or Magistrates, or by any one of them; and the said Act shall in all respects be construed as if the words "where the party complained against resides," had been originally inserted in the third section of the said Act, instead of the words "within which the parties reside."

3.
Interpretation
of "Justice."

And be it further Enacted, That wherever the expression "Justice of the Peace" occurs in the said Act, it shall be construed to mean "Magistrate."

Masters and Workmen.

A

B I L L

To amend an Act of the Fifth Year of His Majesty King GEORGE the Fourth, for consolidating and amending the Laws relative to the Arbitration of Disputes between Masters and Workmen.

(Prepared and brought in by
Mr. Poult Thomson and Mr. Labouchere.)

Ordered, by The House of Commons, to be Printed,
30 June 1837.

1.
 Foreigners
 bearing His
 Majesty's
 Commission
 may be pro-
 moted to the
 rank of Gene-
 ral Officers.

Spiritual and Temporal, and Commons, in this present Parlia-
 ment assembled, and by the Authority of the same, THAT it shall
 be lawful for His Majesty, if he shall think fit, to grant to any Officer
 not being a natural-born subject of His Majesty, but who at the
 time of passing the said recited Act held His Majesty's Commission
 in any such other Regiment, Battalion or Corps of His Majesty's
 Forces, and was allowed to retain the same under the provisions of
 this first-recited Act, the rank and commission of Colonel, Major-
 General, Lieutenant-General or General, as to His Majesty shall
 seem fit, with the pay, emoluments, allowances and advantages
 belonging to the rank so granted.

2.
 Foreigners
 may enlist or
 serve in the
 proportion of
 One to Fifty.

And be it Enacted, That it shall be lawful for His Majesty to sig-
 nify His consent, by the Secretary at War, that any person not being
 a natural-born subject, or entitled to the privileges of a natural-born
 subject of His Majesty, may enlist or serve as a Soldier in His
 Majesty's Service, provided that the number of Foreigners serving
 together at any one time in any Regiment, Battalion or Corps, shall
 not exceed the proportion of *One* Foreigner for every *Fifty* natural-
 born subjects, or men entitled to the privileges of natural-born subjects;
 and every foreign Soldier for whom His Majesty's consent shall have
 been so obtained, shall be taken to have been legally enlisted, and to
 be legally serving: Provided also, That no such Soldier shall be
 capable of holding any higher rank in His Majesty's Forces than
 that of a Non-commissioned Officer.

Foreign Officers Enlistment.

B
I
L
L

For enabling His Majesty to grant the Rank
 of General Officers to Foreigners now bear-
 ing His Majesty's Commission, and to
 permit the Enlistment of Foreigners under
 certain Restrictions.

(Prepared and brought in by

Lord Viscount Howick and Sir Henry Parnell.)

Ordered, by The House of Commons, to be Printed,

10 June 1837.



A

B I L L

To extend an Exemption granted by an Act of the last Session of Parliament from the Duties of Assessed Taxes, in respect of certain Carriages with less than Four Wheels, and to amend the Laws relating to the said Duties.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

5 **W**H **H**EREA**S** by several Acts passed respectively in the forty-third, forty-eighth and fifty-second years of the reign of King GEORGE the Third, certain Duties of Assessed Taxes were granted and made payable in respect of Carriages with less than four wheels, and by the same Acts respectively certain lower rates of the said Duties were made payable in respect of certain inferior descriptions of such Carriages called "Taxed Carts," provided the owner's christian and surname and place of abode and other particulars in the said Acts respectively mentioned should be painted on such
10 Carriages in the manner therein mentioned, in words at full length, each of the letters thereof being at least one inch in length and of a breadth in proportion :

Preamble.
Recital of the Duties granted on Taxed Carts and other Two-wheel Carriages, by the Acts 43 Geo. 3, c. 161 ; 48 Geo. 3, c. 55 ; and 52 Geo. 3, c. 93.

And whereas by an Act passed in the fourth year of the reign of King GEORGE the Fourth, the said Carriages called " Taxed Carts,"
15 having such particulars so painted thereon as aforesaid, were wholly exempted from the said Duties :

Taxed Carts exempted by 4 Geo. 4, c. 11.

And whereas by an Act passed in the third and fourth years of the reign of his late Majesty King WILLIAM the Fourth, the Duties of Assessed Taxes were repealed in respect of certain other inferior

Certain other inferior Two-wheel Carriages exempted by 3 & 4 Will. 4, c. 39.

Carriages with less than four wheels, provided such Carriages were built and constructed in the manner specified in the said last-mentioned Act, and provided that every such Carriage shall have the christian and surname or names and places of abode, occupation or calling of the owner or owners marked or painted thereon in Roman characters, and in words at length, each of the letters being at least one inch in height and of a proper and proportionate breadth. 5

Recital of a further exemption granted by the 6 & 7 Will. 4, c. 65, in respect of Two-wheel Carriages.

And whereas by an Act passed in the sixth and seventh years of the reign of his said late Majesty, a further exemption was granted from the said Duties of Assessed Taxes in respect of certain other Carriages with less than four wheels, provided, amongst other things, that every such Carriage respectively should have the christian name and surname and place of abode and occupation or calling of the owner and of every owner thereof, painted in words at length, and in legible and conspicuous Roman letters or characters, two inches at the least in height, and of a proper and proportionate breadth, upon the outside of such Carriage, in manner in the said last-recited Act mentioned : 10 15

And whereas it is expedient to allow the said last-mentioned exemption in cases where such letters or characters so painted as aforesaid shall be of a less height than two inches, provided the same shall be of the height of one inch at the least : 20

1.
The last mentioned exemption extended to similar Carriages having certain particulars painted thereon in letters One Inch in height.

BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT upon all assessments made or to be made for any year commencing from or at any time after the *Fifth day of April One thousand eight hundred and Thirty-seven*, the said last-mentioned exemption shall extend to every such Carriage in that behalf mentioned and described in the said last-recited Act, whereon the several particulars in the said last-recited Act specified shall be painted in the manner therein mentioned, in distinct words at length, and in legible and conspicuous Roman letters or characters, *One Inch* at the least in height, and of a proper and proportionate breadth. 25 30

2.
Carriages need not be described in the accounts and returns of Coachmakers and others otherwise than by the number of wheels thereof.

AND whereas by the Acts in force relating to the Duties of Assessed Taxes, all coachmakers and makers of carriages, and all sellers of carriages by auction or on commission, and all persons letting to hire any carriages, are respectively required to enter in a book an account of all carriages by them respectively built and constructed for sale or sold or let to hire, containing, amongst other particulars, a description of every such carriage, distinguishing the number of wheels of each, and all such persons as aforesaid are also required to deliver a true copy in writing of every such entry, verified on oath or affirmation, to the Assessor or Assessors of the parish or place in which they respectively reside, or to 35 40

to the Surveyor or Inspector of the said Duties: AND whereas the describing of such Carriages has been found to be attended with difficulty and inconvenience to the persons required to make such entries and to deliver copies thereof as aforesaid; FOR the relief of such persons, be it Enacted, That in any such entry as aforesaid, it shall not
 5 be necessary to describe any Carriage further or otherwise than by stating the number of wheels thereof.

AND whereas by an Act passed in the forty-third year of the reign of King GEORGE the Third, for repealing the several Duties under the
 10 management of the Commissioners for the affairs of Taxes, and granting new Duties in lieu thereof, and for other purposes therein mentioned, the respective Commissioners of the Duties of Assessed Taxes are thereby required, as soon as the assessment of the said Duties shall be made, to issue out and deliver to the respective collectors their war-
 15 rants for the speedy and effectual levying and collecting the said Duties as the same shall become payable as therein mentioned, and it is thereby enacted that such part thereof as cannot be so levied and collected may be recoverable as a debt upon record to the King's Majesty, his heirs and successors, with full costs of suit and all charges
 20 attending the same: AND whereas by another Act passed in the said forty-third year of the reign of King GEORGE the Third, intituled, "An Act for consolidating certain of the Provisions contained in any Act or Acts relating to the Duties under the management of the Commis-
 25 sioners for the affairs of Taxes, and for amending the same," it is enacted, that the Commissioners of Taxes shall make out their Schedules, containing the sums discharged from assessment for any cause specially allowed by law, and the sums with which each and every defaulter ought to be charged, and the sums which shall not have been
 30 collected by occasion of the collector's neglect, and which ought to be re-assessed on the parish, ward or place, and shall cause the said several particulars to be inserted in a Schedule fairly written on parchment, under the hands and seals of such Commissioners or any two or more of them, containing the names and surnames of the said collectors, and the same to be delivered to the Receiver General, to be returned
 35 by such Receiver General into his Majesty's Court of Exchequer; whereupon every person so making default of payment, and each parish, ward or place so in default, may be charged by process of court, according to the course thereof in that behalf: AND
 40 whereas by an Act passed in the fifth and sixth years of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act to consolidate certain Offices in the Collection of the Revenues of Stamps and Taxes, and to amend the Laws relating thereto," it is enacted, that all such Schedules as aforesaid which shall be made out at any time after the commencement of the said Act shall be delivered over or trans-
 mitted by the Receiver General, Receiving Inspector or other Receiver,

3.
 Recital of 43
 Geo. 3, c. 161,
 s. 23.

Recital of 43
 Geo. 3, c. 99,
 s. 45.

Recital of
 5 & 6 Will. 4,
 c. 20, s. 13.

to whom the same shall have been delivered, to the Commissioners of Stamps and Taxes, and shall be deposited and remain in the head office of the said last-mentioned Commissioners ; and that the production of any Schedule so deposited, and purporting to contain the name or names of any such defaulter or defaulters as aforesaid, shall
5 be conclusive evidence against any person named therein as making default of payment, and against every parish, ward or place named therein as in default of the sum or sums mentioned in any such Schedule being due and owing and in arrear, and unpaid to his Majesty, his heirs and successors, unless payment thereof shall be proved ; and
10 that every such sum shall be recoverable from the person and persons making default of payment thereof as a debt upon record to the King's Majesty, his heirs and successors, with full costs of suit, and all charges attending the same : AND whereas doubts have arisen as to the construction of the said Acts, and it is expedient to amend the same ; BE it therefore Enacted, That all and every the said Duties of Assessed Taxes con-
15 tained, charged or assessed in or by any assessment already made or to be at any time hereafter made, may be sued or prosecuted for and recovered, with full costs of suit and all charges attending the same, of and from the person and persons respectively charged therewith, in Her
20 Majesty's Court of Exchequer at Westminster, by information in the name of Her Majesty's Attorney General, as a debt or debts due to The Queen's Majesty, Her heirs and successors, or by any other ways or means whereby any debt of record or otherwise due to The Queen's Majesty, Her heirs or successors, can or may at any time be sued or pro-
25 secuted for or recovered, as well as by the summary means specially provided by the said Acts or any of them for levying the said Duties ; and in any proceeding for the recovery of any of the said Duties, the production of any Schedule made or purporting to be made in pursu-
30 ance of the said Act in that behalf passed in the forty-third year of the reign of King GEORGE the Third, and purporting to contain the name or names of any such defaulter or defaulters as aforesaid, shall be sufficient evidence of the sum or sums mentioned in any such Schedule having been duly charged and assessed upon such defaulter or defaulters respectively, and of the same being due and owing and in arrear and unpaid to Her Majesty, Her heirs and successors.

For removing doubts as to the mode of proceeding against defaulters for the recovery of arrears of Assessed Taxes.

Assessed Taxes.

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To extend an Exemption granted by an Act of the last Session of Parliament from the Duties of Assessed Taxes, in respect of certain Carriages with less than Four Wheels, and to amend the Laws relating to the said Duties.

(Prepared and brought in by
Mr. Chancellor of the Exchequer & Mr. Baring.)

Ordered, by The House of Commons, to be Printed,
3 July 1837.

124



A

B I L L

For Amending the several Acts for the Regulation of Attornies and Solicitors.

[Note.—The Words printed in *Italics* are proposed to be inserted
in the Committee.]

WH E R E A S by an Act passed in the first and second
years of the reign of his late Majesty King GEORGE the
Fourth, intituled, “ An Act to amend the several Acts for the Regula-
tion of Attornies and Solicitors,” and which was afterwards amended
5 by an Act passed in the third year of the reign of his said late
Majesty King GEORGE the Fourth, intituled, “ An Act to amend an
Act made in the then last Session of Parliament, for amending the
several Acts for the Regulation of Attornies and Solicitors,” provision
was made for facilitating the admission of Graduates of the Universities
10 of Oxford, Cambridge and Dublin, as Attorney and Solicitor of the
Courts of Law and Equity in manner and upon the conditions in the
said Acts mentioned :

Preamble :
1 & 2 Geo. 4.
c. 48.

3 Geo. 4. c. 16.

And whereas since the passing of the said recited Acts, the University
of London has been founded and established by the Royal Charter of
15 His present Majesty, and it is expedient that the provisions of the said
Acts should be extended to Graduates of the said University of London;

BE it therefore Enacted, by The KING’s most Excellent MAJESTY,
by and with the Advice and Consent of the Lords Spiritual and Temporal,
and Commons, in this present Parliament assembled, and by the
20 Authority of the same, THAT from and after the *passing of this Act*, all
the provisions, regulations, conditions and restrictions in the said recited
Acts, or either of them, contained for or relating to the admission and
inrolment as Attornies and Solicitors of persons who had taken or shall
thereafter take the Degree of Bachelor of Arts or Bachelor of Law in
any of the Universities of Oxford, Cambridge and Dublin, shall extend

1.
Provisions of
former Acts
relating to the
Admission
and Inrolment
as Attornies,
of Bachelors
of Arts or Law
at Oxford,
Cambridge

and Dublin,
extended to
Bachelors of
Arts or Law
at the Uni-
versity of
London.

and be applicable to the admission and inrolment as Attornies and Solicitors of all persons who shall have taken or shall take the Degree of Bachelor of Arts or Bachelor of Law in the said University of London, as fully and effectually as if the said University of London had been founded at the time of the passing of the said Acts, and had 5 been therein named, together with the said Universities of Oxford, Cambridge and Dublin.

2.
So much of
2 Geo. 2 as
relates to One
Shilling on
Admission of
Attornies,
repealed.

AND whereas by an Act passed in the second year of the reign of his late Majesty King GEORGE the Second, intituled, "An Act for the better Regulation of Attornies and Solicitors," it is enacted, that the 10 Judges of the Court of King's Bench, Common Pleas and Exchequer respectively, or any one or more of them, shall, before they shall admit any person to take the oath therein mentioned, examine and inquire, by such ways and means as they shall think proper, touching his fitness and capacity to act as an Attorney; and if such Judge or Judges 15 respectively shall be thereby satisfied that such person is duly qualified to be admitted to act as an Attorney, then, and not otherwise, the said Judge or Judges of the said Courts respectively shall and they are thereby authorized to administer to such person the oath thereafter directed to be taken by Attornies, and after such oath taken, to cause him to be 20 admitted an Attorney of such Court respectively, and his name to be enrolled as an Attorney in such Court respectively, without any fee or reward, other than One Shilling for administering such oath, which admission shall be written on parchment in the English tongue, in a common legible hand, and signed by such Judge or Judges respectively, whereon 25 the lawful stamp shall be first impressed, and shall be delivered to such person so admitted: AND whereas other fees, gratuities and sums of money, beside the said fee of One Shilling, have been in practice demanded or received by officers of the said Courts respectively; and it is expedient to repeal so much of the said last recited Act as relates to the 30 payment of no more than the sum of One Shilling upon such admission, and to make other regulations in lieu thereof: AND whereas regulations for ensuring the due examination of persons to be admitted and enrolled as Attornies of the said Courts of Common Law have been made or approved by the Judges of the said Courts respectively, and it is expedient that reasonable and certain fees, in lieu of those now demanded and received as aforesaid, should be paid by the persons so to be 35 admitted, and also for the purpose of defraying the expenses attendant on giving effect to such regulations as aforesaid, or such other regulations as may be from time to time made or approved by the said Judges 40 for the like purpose; BE it therefore Enacted, That from and after the passing of this Act, so much of the said last recited Act of the second year of the reign of King GEORGE the Second as relates to the payment of no more than One Shilling upon such admission, shall be and the same is hereby repealed.

And

And be it further Enacted, That from and after the *passing of this Act*, it shall be lawful for the Judges of the said Courts respectively, or any *Eight* of them, and they are hereby authorized to make rules and regulations from time to time for the payment of such reasonable
5 Fees, or sums of money, upon the examination and admission of Attornies in all or any of the said Courts respectively, as they shall deem expedient and proper, and that no other fees, gratuities or sums of money whatsoever shall be asked or received by any person or persons whatsoever, upon the examination or admission of Attornies in
10 all or any of the said Courts respectively, upon any pretence whatsoever.

3.
The Judges may regulate the Fees on Examination and Admission of Attornies.

And be it Enacted, That this Act may be amended, altered or repealed during the present Session of Parliament.

4.
Act may be repealed during present Session.

Attornies and Solicitors.

A.

B I L L

For Amending the several Acts for the
Regulation of Attornies and Solicitors.

(*Prepared and brought in by*
Mr. Tooke and Mr. Sturt.)

Ordered, by The House of Commons, to be Printed
9 March 1837.

21
7 June 1837.—7 WILL. IV.

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B I L L

[AS AMENDED BY THE COMMITTEE]

For Amending the several Acts for the Regulation of Attorneys and Solicitors.

[N. B.—*The Clause marked (A.) was added by the Committee.*]

WHEREAS by an Act passed in the first and second years of the reign of his late Majesty King GEORGE the Fourth, intituled, “An Act to amend the several Acts for the Regulation of Attornies and Solicitors,” and which was afterwards amended
5 by an Act passed in the third year of the reign of his said late Majesty King GEORGE the Fourth, intituled, “An Act to amend an Act made in the last Session of Parliament, for amending the several Acts for the Regulation of Attornies and Solicitors,” provision was made for facilitating the admission of Graduates of the Universities
10 of *Oxford, Cambridge and Dublin*, as Attorneys and Solicitors of the Courts of Law and Equity in manner and upon the conditions in the said Acts mentioned :

Preamble
1 & 2 Geo. 4.
c. 48.

3 Geo. 4. c. 16.

And whereas since the passing of the said recited Acts, the University of *London* has been founded and established by the Royal Charter of
15 His present Majesty, and an University has been founded and established in connexion with the Cathedral Church of *Durham*, under the authority of an Act passed in the second and third years of the reign of His present Majesty, intituled, “An Act to enable the Dean and Chapter of *Durham* to appropriate part of the property of their
20 church to the establishment of an University in connexion therewith, for the advancement of learning;” and it is expedient that the provisions of the said first recited Acts should be extended to Graduates of the said Universities of *London* and *Durham*;

BE it therefore Enacted, by The KING’s most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the
383. Authority

i.
Provisions of former Acts relating to the Admission and Inrolment as Attornies, of Bachelors of Arts or Law at Oxford, Cambridge and Dublin, extended to Bachelors of Arts or Law at the University of London or Durham.

Authority of the same, THAT from and after the passing of this Act, all the provisions, regulations, conditions and restrictions in the said recited Acts, or either of them, contained for or relating to the admission and inrolment as Attornies and Solicitors of persons who had taken or shall thereafter take the Degree of Bachelor of Arts or Bachelor of Law in any of the Universities of *Oxford*, *Cambridge* and *Dublin*, shall extend and be applicable to the admission and inrolment as Attornies and Solicitors of all persons who shall have taken or shall take the Degree of Bachelor of Arts or Bachelor of Law either in the said University of *London* or in the said University of *Durham*, as fully and effectually as if the said University of *London* had been founded at the time of the passing of the said Acts, and had been therein named, together with the said Universities of *Oxford*, *Cambridge* and *Dublin*.

2.
So much of 2 Geo. 2 as relates to One Shilling on Admission of Attornies, repealed.

AND whereas by an Act passed in the second year of the reign of his late Majesty King GEORGE the Second, intituled, "An Act for the better Regulation of Attorneys and Solicitors," it is enacted, that the Judges of the Courts of King's Bench, Common Pleas and Exchequer respectively, or any one or more of them, shall, before they shall admit any person to take the oath therein mentioned, examine and inquire, by such ways and means as they shall think proper, touching his fitness and capacity to act as an Attorney; and that the Master of the Rolls, or two of the Masters of the Court of Chancery, shall in like manner, before he or they shall admit any person to take the oath therein mentioned, examine and inquire touching his fitness and capacity to act as a Solicitor, and that if the said Judges shall be satisfied that such person is duly qualified to be admitted to act as an Attorney, and the said Master of the Rolls or two Masters in Chancery shall be satisfied that such person is duly qualified to be admitted to act as a Solicitor, they are thereby respectively authorized to administer to such person the oath therein mentioned, and to admit and inrol him as an Attorney or Solicitor of such Court respectively, without any fee or reward, other than One Shilling for administering such oath: AND whereas other fees, gratuities and sums of money, beside the said fee of One Shilling, have been in practice demanded or received by officers of the said Courts respectively; and it is expedient to repeal so much of the said last recited Act as relates to the fee payable upon such admission, and to make other regulations in lieu thereof: AND whereas regulations for ensuring the due examination of persons to be admitted and enrolled as Attornies or Solicitors of the said Courts of Common Law and Equity have been made or approved by the Judges of the said Courts respectively, and it is expedient that reasonable and certain fees, in lieu of those now demanded and received as aforesaid, should be paid by the persons so to be admitted, upon and for such examination and admission and the expenses incident thereto; BE it therefore Enacted, That from and after the passing of this Act, so much of the said

said last recited Act of the second year of the reign of King GEORGE the Second as relates to the fee payable upon such admissions, shall be and the same is hereby repealed.

5 And be it Enacted, That from and after the passing of this Act,
it shall be lawful for the Judges of the said Courts of King's
Bench, Common Pleas and Exchequer, or any Eight of them, and
they are hereby authorized to make rules and regulations from time to
time for the payment of such reasonable Fees, or sums of money,
upon and for the examination and admission of Attornies in all or any
10 of the said Courts respectively, as they shall deem expedient and
proper ; and that it shall be lawful for the Master of the Rolls, and he
is hereby authorized to make orders and regulations from time to time
for the payment of such reasonable fees upon and for the examination
and admission of Solicitors in the Court of Chancery as he shall deem
15 expedient and proper, and that no fees, gratuities or sums of money
whatsoever, other than the fees or sums of money to be mentioned in
such rules, orders or regulations as aforesaid, shall be asked or received
by any person or persons, upon the examination or admission of Attor-
nies or Solicitors in all or any of the said Courts respectively, upon
20 any pretence whatsoever.

3.
The Judges
may regulate
the Fees on
Examination
and Admission
of Attornies.

And be it Enacted, That any person who shall have been duly
admitted an Attorney or Solicitor in any of His Majesty's Courts of
Law or Equity at *Westminster*, shall be at liberty to practise in any
other of His Majesty's Courts, although he may not have been ad-
25 mitted an Attorney or Solicitor thereof; and that no person having
been duly admitted an Attorney or Solicitor as aforesaid, shall be
prevented from recovering or receiving the amount of any costs, which
would otherwise have been due to him) by reason of his having omitted
to take out a certificate, or by reason of his not being duly admitted
30 an Attorney or Solicitor of the Court in which such costs shall have
been incurred : Provided always, That any Attorney or Solicitor prac-
tising in any Court of Law or Equity shall be subject to the jurisdic-
tion of such Court as fully and completely to all intents and purposes
whatever as if he had been duly admitted an Attorney or Solicitor of
35 such Court.

4.
CLAUSE (A.)
Attornies or
Solicitors ad-
mitted of one
Court, may
practise in
and recover
Costs for busi-
ness trans-
acted in
another.

And be it Enacted, That this Act may be amended, altered or
repealed during the present Session of Parliament.

5.
Act may be
repealed
during present
Session.

Attorneys and Solicitors.

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B I L L

[AS AMENDED BY THE COMMITTEE]

For Amending the several Acts for the
Regulation of Attorneys and Solicitors.

(Prepared and brought in by
Mr. Tooke and Mr. Strutt.)

Ordered, by The House of Commons, to be Printed,
7 June 1837.



A

B I L L

[AS AMENDED ON RE-COMMITMENT]

For Amending the several Acts for the Regulation of Attorneys and Solicitors.

[N. B.—*The Clause marked (A.) was added by the Committee ;
The Schedule, on Re-commitment.*]

WH E R E A S by an Act passed in the first and second years of the reign of his late Majesty King GEORGE the Fourth, intituled, “ An Act to amend the several Acts for the Regulation of Attorneys and Solicitors,” and which was afterwards amended by an Act passed in the third year of the reign of his said late Majesty King GEORGE the Fourth, intituled, “ An Act to amend an Act made in the last Session of Parliament, for amending the several Acts for the Regulation of Attorneys and Solicitors,” provision was made for facilitating the admission of Graduates of the Universities of *Oxford, Cambridge and Dublin*, as Attorneys and Solicitors of the Courts of Law and Equity in manner and upon the conditions in the said Acts mentioned :

Preamble :
1 & 2 Geo. 4.
c. 48.

3 Geo. 4. c. 16.

And whereas since the passing of the said recited Acts, the University of *London* has been founded and established by the Royal Charter of His present Majesty, and an University has been founded and established in connexion with the Cathedral Church of *Durham*, under the authority of an Act passed in the second and third years of the reign of His present Majesty, intituled, “ An Act to enable the Dean and Chapter of *Durham* to appropriate part of the property of their Church to the establishment of an University in connexion therewith, for the advancement of learning :”

And whereas since the passing of the said last-mentioned Act a Royal Charter of Incorporation has been granted to the University of *Durham* ; and it is expedient that the provisions of the said first-recited

398. Acts

Acts should be extended to Graduates of the said Universities of *London* and *Durham*;

1.
Provisions of former Acts relating to the Admission and Inrolment as Attorneys, of Bachelors of Arts or Law at Oxford, Cambridge and Dublin, extended to Bachelors of Arts or Law at the Universities of London and Durham.

~~BE~~ it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the passing of this Act, all the provisions, regulations, conditions and restrictions in the said recited Acts, or either of them, contained for or relating to the admission and inrolment as Attorneys and Solicitors of persons who had taken or shall thereafter take the Degree of Bachelor of Arts or Bachelor of Law in any of the Universities of *Oxford*, *Cambridge* and *Dublin*, shall extend and be applicable to the admission and inrolment as Attorneys and Solicitors of all persons who shall have taken or shall take the Degree of Bachelor of Arts or Bachelor of Law either in the said University of *London* or in the said University of *Durham*, as fully and effectually as if the said University of *London* and the said University of *Durham* had been respectively founded at the time of the passing of the said Acts, and had been therein named, together with the said Universities of *Oxford*, *Cambridge* and *Dublin*.

2.
So much of 2 Geo. 2 as relates to One Shilling on Admission of Attorneys, repealed.

AND whereas by an Act passed in the second year of the reign of his late Majesty King GEORGE the Second, intituled, "An Act for the better Regulation of Attorneys and Solicitors," it is enacted, that the Judges of the Courts of King's Bench, Common Pleas and Exchequer respectively, or any one or more of them, shall, before they shall admit any person to take the oath therein mentioned, examine and inquire, by such ways and means as they shall think proper, touching his fitness and capacity to act as an Attorney; and that the Master of the Rolls, or two of the Masters of the Court of Chancery, shall in like manner, before he or they shall admit any person to take the oath therein mentioned, examine and inquire touching his fitness and capacity to act as a Solicitor, and that if the said Judges shall be satisfied that such person is duly qualified to be admitted to act as an Attorney, and the said Master of the Rolls or two Masters in Chancery shall be satisfied that such person is duly qualified to be admitted to act as a Solicitor, they are thereby respectively authorized to administer to such person the oath therein mentioned, and to admit and inrol him as an Attorney or Solicitor of such Court respectively, without any fee or reward, other than One Shilling for administering such oath: AND whereas other fees, gratuities and sums of money, beside the said fee of One Shilling, have been in practice demanded or received by officers of the said Courts respectively; and it is expedient to repeal so much of the said last recited Act as relates to the fee payable upon such admission, and to make other regulations in lieu thereof: AND whereas regulations for ensuring the due examination of persons to be admitted and enrolled

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as Attorneys or Solicitors of the said Courts of Common Law and Equity have been made or approved by the Judges of the said Courts respectively, and it is expedient that reasonable and certain fees, in lieu of those now demanded and received as aforesaid, should be paid
5 by the persons so to be admitted, upon and for such examination and admission and the expenses incident thereto; BE it therefore Enacted, That from and after the passing of this Act, so much of the said last recited Act of the second year of the reign of King GEORGE the Second as relates to the fee payable upon such admissions, shall be
10 and the same is hereby repealed.

And be it Enacted, That from and after the passing of this Act, no fees, gratuities or sums of money whatsoever, other than the fees or sums of money mentioned in the Schedule to this Act annexed, shall be demanded or received by any person or persons, upon the
15 examination or admission of Attorneys or Solicitors in any of the said Courts respectively, upon any pretence whatsoever.

And be it Enacted, That any person who shall have been duly admitted an Attorney or Solicitor in any of His Majesty's Courts of Law or Equity at *Westminster*, shall be at liberty to practise in any
20 other of His Majesty's Courts, although he may not have been admitted an Attorney or Solicitor thereof; and that no person having been duly admitted an Attorney or Solicitor as aforesaid, shall be prevented from recovering or receiving the amount of any costs, which would otherwise have been due to him) by reason of his not being admitted
25 an Attorney or Solicitor of the Court in which such costs shall have been incurred: Provided always, That any Attorney or Solicitor practising in any Court of Law or Equity shall be subject to the jurisdiction of such Court as fully and completely to all intents and purposes whatever as if he had been duly admitted an Attorney or Solicitor of
30 such Court.

And be it Enacted, That this Act may be amended, altered or repealed during the present Session of Parliament.

3.
No Fees on Examination and Admission of Attorneys, except those mentioned in Schedule.

4.
CLAUSE (A.)
Attorneys or Solicitors admitted of one Court, may practise in and recover Costs for business transacted in another.

5.
Act may be repealed during present Session.

SCHEDULE

SCHEDULE
TO WHICH THE FOREGOING ACT REFERS.

FEES to be paid on the EXAMINATION and ADMISSION of ATTORNEYS in the
COURTS of COMMON LAW.

	£.	s.	d.
On leaving Articles of Clerkship and Assignments for inspection, and inquiry as to due service	-	5	-
On the Examination into the fitness and capacity of the Clerk, and for the Certificate thereof	-	15	6
For the Judge's Fiat	-	10	6
For the Oath in Court	-	1	-
To the Usher on signing the Roll	-	5	-
To the Master's Clerk for Certificate of Inrolment	-	5	-

FEES to be paid on the EXAMINATION and ADMISSION of SOLICITORS in CHANCERY.

	£.	s.	d.
On leaving Articles of Clerkship and Assignments for inspection, and inquiry as to due service	-	5	-
On the Examination into the fitness and capacity of the Clerk, and for the Certificate thereof	-	15	6
For the admission at the Rolls, including the Fees of the Clerk of the Petty Bag Office, Usher, &c.	1	17	-

Attorneys and Solicitors.

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[AS AMENDED ON RE-COMMITMENT.]

For Amending the several Acts for the
Regulation of Attorneys and Solicitors.

(Prepared and brought in by
Mr. Tooke and Mr. Strutt.)

*Ordered, by The House of Commons, to be Printed,
14 June 1837.*



(Ireland.)

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B I L L

For the better Regulation of the Profession of
Attorney and Solicitor in Ireland, and the
several Offices connected therewith.

[Note.—The Words printed in *Italics* are proposed to be inserted
in the Committee.]

- W**H **E**R **E**A **S** it is expedient that the provisions of the several Preamble.
Acts hereinafter mentioned and from time to time made for
the regulation of the Profession of Attorney and Solicitor in Ireland
should be consolidated and amended, and further provision made for
the better regulation of such profession, and to ensure the education,
skill and respectability of persons admitted to the practice thereof;
BE **i**t **t**h**e**r**e**f**o**r**e** **E**n**a**c**t**e**d**, by The QUEEN's most Excellent MAJESTY,
by and with the Advice and Consent of the Lords Spiritual and Tem-
poral, and Commons, in this present Parliament assembled; and by
the Authority of the same, *THAT* from and after the *First* day of
Michaelmas Term in this present year, the several Acts hereinafter
mentioned shall be and the same are hereby Repealed; (that is to say)
an Act made in the Parliament of Ireland in the seventh year of the
reign of King GEORGE the Second, intituled, "An Act for the Amend-
ment of the Law in relation to Popish Solicitors, and for remedying
other Mischiefs in relation to the Practitioners in the several Courts of
Law and Equity;" an Act made in the same Parliament in the thir-
teenth and fourteenth years of the reign of King GEORGE the Third,
intituled, "An Act for the better Regulation of the Admission and
Practice of Attornies;" an Act made in the Parliament of the United
Kingdom in the first and second years of the reign of King GEORGE
the Fourth, intituled, "An Act to amend the several Acts for the
Regulation of Attornies and Solicitors;" and an Act made in the said
1.
After the First
day of Mi-
chaelmas
Term next.
7 Geo. 2, c. 5.
13 & 14 Geo. 3,
c. 23.
1 & 2 Geo. 4,
c. 48.
3 Geo. 4, c. 16,
repealed.
454. A last-

last-mentioned Parliament in the third year of the same reign, amending the said last-recited Act: Provided always, That the said two last-mentioned Acts shall be taken to be hereby repealed only so far as the same relate or extend to Ireland, but shall remain in full force and effect as respects England and Wales: And provided further, That notwithstanding the repeal of the said Acts, all acts, matters and things heretofore done under or in pursuance of the said recited Acts shall be good, valid and effectual to all intents and purposes: And provided further, That all persons now serving as Apprentices, and who may be entitled to be admitted as Attornies or Solicitors in Ireland under the laws now in force in Ireland by virtue of such service, may be admitted and inrolled (but pursuant nevertheless to the provisions hereinafter contained) as if such service or Apprenticeship had been under and according to the provisions of this Act, being duly qualified in other respects to be so admitted.

Proviso for Persons now entitled to rights thereunder.

2.

No Person to practise as an Attorney or Solicitor, unless admitted before the First day of Michaelmas Term next, or in manner hereinafter provided.

And be it Enacted, That from and after the *First* day of *Michaelmas* Term in this present year, no person shall act as a Solicitor or Attorney, or sue out any writ or process, or commence, carry on, or solicit or defend any action, suit or other proceeding in the name of any other person, in Her Majesty's High Court of Chancery, or in the Courts of Queen's Bench, Common Pleas or Exchequer, or any other Court of Record or Equity in Ireland, unless such person shall have been admitted, inrolled and otherwise duly qualified on or before the said *First* day of *Michaelmas* Term in this present year, an Attorney or Solicitor in the Court where he shall act as such, and continue so entered upon the Rolls, and remain otherwise qualified at the time of his acting in such capacity, or unless such person shall be admitted and inrolled, after the said *First* day of *Michaelmas* Term in this present year, an Attorney or Solicitor of such Court in manner hereinafter directed, and continue on the Rolls at the time of his acting in such capacity.

3.

No person to practise as Attorney or Solicitor, unless admitted and inrolled in one of the Four Courts in Dublin.

And be it Enacted, That no person shall act as an Attorney or Solicitor in any cause, matter or suit, criminal or civil, to be heard, tried or determined before any Justice of Assize or Oyer and Terminer or Gaol Delivery, or in any cause or matter depending before any Commissioners of Her Majesty's Revenue, or Commissioners or other persons acting in any judicial capacity, or at any General or Quarter Sessions of the Peace for any county, city or place, or in the Court of any Assistant Barrister, or the Chairman of the Sessions of the county of Dublin, or of the Commissioners of Bankruptcy, unless such person shall have been heretofore admitted, inrolled and otherwise duly qualified as an Attorney or Solicitor of one of Her Majesty's said Four Courts at Dublin, or unless such person shall be hereafter admitted and inrolled an Attorney or Solicitor of one of the said

said Courts, pursuant to the directions of this Act, and unless such person in either case shall continue to be duly qualified and on the Roll at the time of his acting in the capacity of an Attorney or Solicitor as aforesaid.

5 And be it Enacted, That from and after the said *First* day of *Michaelmas* Term in this present year, no person shall be admitted to practise as an Attorney or Solicitor in any Court of Law or Equity in Ireland who shall not have been bound by Indenture of Apprenticeship, and served as an Apprentice or Clerk for and during the space
 10 of *Five* Years to an Attorney or Solicitor duly admitted and qualified to practise in the said several Courts of Queen's Bench, Common Pleas, Exchequer, and as a Solicitor of the Court of Chancery in Ireland: Provided always, That any person who shall take or have taken the degree of Bachelor of Arts within *Six* Years after his matriculation, or the degree of Bachelor of Laws within *Eight* Years after
 15 his matriculation in some one of the Universities of Oxford, Cambridge, Dublin or London, and who shall, within *Four* Years after the day when he shall have taken such degree, be bound by Indenture of Apprenticeship as aforesaid, and have served as an Apprentice to any
 20 such Attorney or Solicitor for and during the term of *Three* Years, may be admitted as an Attorney or Solicitor as aforesaid, as if he had been so bound and served for and during the said term of *Five* Years: And provided also, That any person who shall have kept the regular Terms in any one of the said Universities for a period of at least *Two* Years immediately preceding the time at which he may be bound Apprentice,
 25 and who shall, previous to his application for admission, and within *Four* Years after the expiration of his Apprenticeship, have taken the degree of Bachelor of Arts or Bachelor of Laws, shall be admitted as an Attorney or Solicitor, although he shall have served as an Apprentice to any Attorney or Solicitor for and during the term of *Three*
 30 Years only: And provided further, That if any person who now is or hereafter shall be bound to serve as an Apprentice to any Attorney or Solicitor for the said term of *Five* Years as aforesaid shall, with the consent of his master, previously obtained in writing for that purpose, actually and bonâ fide be and continue as pupil to any practising
 35 Barrister, or to any person practising as a certificated Special Pleader in England or in Ireland, for any part or parts of the said term of *Five* Years not exceeding *One* Year, it shall be lawful to admit such person as an Attorney or Solicitor as if he had actually served the whole
 40 of such term of *Five* Years as an Apprentice to the Attorney or Solicitor to whom he may have been bound, the facts being proved, by affidavit or otherwise, to the satisfaction of the Court in which he may apply to be admitted and inrolled.

4.
 No Person to be admitted unless articulated and serving for Five Years.

5.
Officer filing
Affidavit of
Inrolment to
enter the sub-
stance in a
Book.

And be it Enacted, That every such officer or officers filing such affidavits as aforesaid shall keep a book wherein shall be entered the substance of such affidavit, specifying the names and places of abode of every such Attorney or Solicitor and Apprentice bound as aforesaid, and of the person making such affidavit, with the date of the articles or contract in such affidavit to be mentioned, and the days of swearing and filing every such affidavit respectively; and such books shall and may be searched in office hours by any person or persons whomsoever, without fee or reward.

6.
No Attorney,
having dis-
continued to
practise, shall
retain an
Apprentice.

And be it Enacted, That from and after the said *First* day of *Michaelmas* Term in this present year no Attorney or Solicitor shall take, have or retain any Apprentice who shall become bound by contract in writing as aforesaid, after such Attorney or Solicitor shall have discontinued or left off practice, or during such time as he shall not actually practise as or carry on the business of an Attorney or Solicitor.

7.
Apprentice to
serve the
whole num-
ber of years.

And be it Enacted, That every person who shall, after the said *First* day of *Michaelmas* Term, become bound by contract in writing to serve any Attorney or Solicitor, shall, during the whole term of service to be specified in such contract, continue and be actually employed by such Attorney or Solicitor, or his or their agent or agents, in the proper business, practice or employment of Attorney or Solicitor, subject to the rules and orders to be made respecting the assignment of apprentices as hereinafter mentioned.

8.
Power to
Judges to
make Rules
as to Admis-
sions.

And be it Enacted, That it shall and may be lawful to and for the Lord High Chancellor of Ireland, the Master of the Rolls in Ireland, and the Judges of the Courts of Queen's Bench, Common Pleas and Exchequer in Ireland for the time being, as soon as conveniently may be after the *passing of this Act*, to frame, make or publish such orders, rules and regulations, as they shall respectively deem necessary, relative to the assignment of Apprentices in case the Attornies or Solicitors to whom they shall have been bound shall die or cease to practise, and relative to the affidavit to be made or proof to be given of the due execution of every contract of apprenticeship, and of the performance of the service thereby required, before any person shall be admitted in such Courts respectively under or in respect of any such contract of apprenticeship.

9.
Attorney
not to act as
Agent for
unqualified
persons, under
penalty of
being struck
off the Roll.

And be it Enacted, That from the said *First* day of *Michaelmas* Term in this present year, if any Attorney or Solicitor shall, upon the account or for the profit of any person or persons, not being an Attorney or Solicitor, act in his own name, or permit or suffer his name

name to be in any way made use of, or send any process to any such person or persons, thereby to enable him or them to appear, act or practise in any respect as an Attorney or Solicitor, knowing him not to be duly qualified as aforesaid, and complaint shall be made thereof
 5 in a summary way to the Court from whence any such process did issue, and proof made thereof upon oath to the satisfaction of the Court that such Attorney or Solicitor hath offended therein as aforesaid, then and in such case every such Attorney or Solicitor so offending shall be struck off the Roll, and thereby cease to be an
 10 Attorney or Solicitor; and in that case, and upon such complaint and proof made as aforesaid, it shall and may be lawful to and for the said Court to punish such unqualified person so acting or practising in manner aforesaid as for a contempt of Court.

And be it Enacted, That from and after the *passing of this Act* no
 15 Attorney or Solicitor shall have more than *Three* Articled Clerks or Apprentices at one and the same time.

10.
 No Attorney or Solicitor to have more than Three Apprentices at once.

AND whereas the Society commonly called "The Society of King's Inns" at Dublin is governed by a body called the Benchers of such Society, consisting of the Lord Chancellor, the Judges of the
 20 Superior Courts, King's Counsel and Barristers selected from the members of the said Society, but no member of the profession of Attorney or Solicitor has for a long time been elected one of the said governing body, although all the members of such profession of Attorney or Solicitor at present belong to such Society : AND whereas
 25 the said Benchers have from time to time framed rules and regulations as to persons seeking to become Attornies and Solicitors becoming members of such Society, and also regulations for persons seeking to become Apprentices to Attornies and Solicitors in Ireland, and have also imposed certain fees to be paid by them to the said
 30 Society : AND whereas the Attornies and Solicitors of Ireland have formed a society from among the members of their own profession for the better regulation thereof, and it is expedient that such society should be incorporated and invested with the powers requisite to enable them, by due examination of the persons desirous of becoming
 35 members of such profession, and inquiry into their character, conduct and qualifications, and by establishing regulations in respect of such persons, to prevent improper or incompetent persons from becoming or practising as Attornies or Solicitors, and it is expedient that the power and authority heretofore belonging to or claimed by the
 40 said Society of the King's Inns, in respect of the admission of Attornies or Solicitors, should be transferred to the society to be so incorporated ; BE it therefore and it is hereby Enacted and Declared, That from and after the said *First* day of *Michaelmas* Term in this present year it is not and shall not be necessary for any person desirous of becoming an Attorney or Solicitor in Ireland to be a member

11.
 Recites the Constitution of the Society of King's Inns ;

and the formation of the Law Society.

That after the passing of this Act, Attornies and Solicitors need not be

Members of
the King's
Inns, and
the control of
the Society of
King's Inns
over Attornies
and Solicitors
to cease.

Not to affect
the rights of
Attornies now
Benchers of
King's Inns.

12.
Law Society
incorporated.

of the said Society of the King's Inns, and that all powers and authorities heretofore or at present exercised or claimed to be exercised by the said Society of the King's Inns at Dublin, or the members or Benchers thereof, and all rules and regulations at any time heretofore made by the said Society or Benchers relative to the apprenticing to Attornies, or to the admission of Attornies and Solicitors into the said Courts in Ireland, shall, from and after the said *First* day of *Michaelmas* Term, in this present year, cease determine and be and they are hereby declared to be null and void to all intents and purposes whatsoever : Provided always, That nothing herein contained shall affect the rights or privileges of any of the present Attornies or Solicitors in Ireland as members of the said Society of the King's Inns.

And be it Enacted, That the several Attornies and Solicitors in Ireland whose names are contained in the First Schedule to this Act annexed, and the several other Attornies and Solicitors in Ireland who shall become members of such society, so to be incorporated according to the rules and regulations to be made as hereinafter mentioned, in respect of the admission of members into such society, an also the several other persons who shall hereafter from time to time be admitted into the said profession of Attorney and Solicitor in Ireland, and who shall in like manner become members of the said Society so to be incorporated, shall respectively, so long as they shall continue members thereof, be and they are hereby constituted into and shall form one body corporate by the name of "The Incorporated Society of Attornies and Solicitors in Ireland," and by such name shall have perpetual succession, and shall and may for ever hereafter sue and be sued, plead and be impleaded, answer and be answered, and defend in all courts of law and equity ; and also that they and their successors by the same name shall at all times hereafter for ever be able and capable in law to purchase, have and hold any lands and tenements for the purpose of erecting a hall or halls, with convenient chambers, buildings and appurtenances, so as such lands shall not exceed at any one time in the whole *Five* Statute acres ; and by the same name to grant, demise, alien, assign, encumber and dispose of such lands, tenements and hereditaments, or any part or parts thereof, and to do and execute all other things lawful, necessary and convenient for the purposes of the said Society ; and also that they and their successors shall and may for ever hereafter have a common seal, which shall always be and remain in the custody of the President for the time being of the said Society, or such other person or persons as shall or may be appointed Seal-keeper or Seal-keepers for the time being by the said Society ; and that it shall and may be lawful to and for the said Society lawfully convened in manner hereinafter mentioned, or the major part of the members thereof present at such meeting, to break, alter, change or make void the said seal, and another or others from time to time to adopt and use, as to the said Society shall seem requisite and proper.

And

13.
Constitution
of Society.

And be it Enacted, That in order to carry the purposes of this Act into operation and effect, there shall for ever hereafter be a Council composed of *Twenty-four* Members of the said Society, which Council shall consist of a President, *Two* Vice-Presidents and *Twenty-one* Assistants, *Seven* of whom shall be a quorum for all the purposes of this Act; and that *Josias Dunn*, gentleman, shall be and he is hereby nominated and declared to be the first and present President of the said Incorporated Society of the Attornies and Solicitors of Ireland; and that *William Goddard* and *Thomas Beasley*, gentlemen, shall be and they are hereby nominated and declared to be the first and present Vice-Presidents of the said Incorporated Society; and that *Mathew Franks*, *Edward Tandy*, *Richard Meade*, *Peirce Mahony*, *Arthur Barlow*, *James Watt*, *William Henry Carroll*, *Mathew Barrington*, *Henry Ryan*, *Wills Hill Mecredy*, *John Litton*, *William Forde*, *Richard John Theodore Orpen*, *Charles O'Doherty*, *Thomas Babington*, *Robert M'Naghten*, *Godfrey FetherstonH.*, *Isaac Ogle Glenmy*, *John Grene*, *Richard Alexander Walker* and *Robert Maunsell*, gentlemen, shall and they are hereby nominated and declared to be the first and present Council of the said Society.

14.
General
Meeting for
Election of
Council.

And be it Enacted, That a General Meeting of the said Society shall be held upon the day next after the *Last* day of *Michaelmas* Term which will be in the year of our Lord *One thousand eight hundred and Thirty-eight*, not being Sunday, and on the day next after the *Last* day of *every succeeding Michaelmas* Term, not being Sunday as aforesaid, between the hours of *Nine* and *Four* of the clock of the day, at the hall of the said Society, or such other place as shall be appointed by the Council of the said Society for that purpose; and the said Society shall proceed to elect by ballot from amongst the numbers thereof, *One* Member to be President, *Two* to be Vice-Presidents, and *Twenty-one* to be Assistants, such President, Vice-President and Assistants to be the Council for *One* Year, and until others shall be elected in their room; and such meeting shall, if necessary, adjourn from day to day (Sunday excepted) until *Thirty-one* Members of the said Society, at the least, shall have ballotted at the said election.

15.
Power to
Council to
nominate
Officers.

And be it Enacted, That it shall be lawful to and for the said Council of the said Society nominated by this Act, and all future Councils thereof, and they are hereby authorized and empowered, from time to time to nominate and elect during pleasure a Seal-keeper or Seal-keepers, Treasurer or Treasurers, Secretary, Registrar, and such other officers and servants of and for the said Society, for the despatching of the business thereof, at such salaries and under such regulations as to them shall seem fit and proper, and from time to time to remove such officer or officers as occasion shall require.

16.
Power to
Council to
make Rules
as to Articled
Clerks, sub-
ject to the
approbation
of the Judges,
and to alter
same.

And be it Enacted, That from and after the *passing of this Act*, the said Council of the said Society, and all future Councils thereof, to be elected as aforesaid, shall and they are hereby authorized and empowered from time to time to frame, make and publish such rules, ordinances, regulations and orders respecting the education, qualifications, forms and payments which shall be required of and from all persons who shall after the *passing of this Act* apply to be articled or bound to any Attorney in Ireland, previously to such person being so articled or bound, or during or upon the expiration of such their Apprenticeship, also the duties to be observed by Masters and Apprentices during such Apprenticeship, and also as to the examination, forms and qualifications necessary before such Apprentices shall be admitted to practise in such profession of Attorney and Solicitor in Ireland: Provided always, That such rules, regulations, ordinances and orders be not repugnant to or inconsistent with the provisions of this Act, or of any law or statute now in force, save and except such enactments as are repealed by this Act: And provided further, That such rules, regulations, ordinances and orders, or any of them, shall not have any force or effect until they shall have been approved of and signed by the Lord High Chancellor of Ireland, the Master of the Rolls in Ireland, and Judges of the Courts of Queen's Bench, Common Pleas and Exchequer in Ireland for the time being, or the major part of them, nor until the same shall have been posted in the Common Hall, or other place of meeting of the said Society, for the space of *One* calendar Month; and that it shall and may be lawful to and for the Council of the said Society from time to time to alter, vary and repeal such rules, ordinances, regulations, orders and bye-laws, or any of them, and to make such others as to the said Council shall seem meet and expedient; such new, amended, altered or varied Rules to be approved of and posted in like manner as is hereinbefore directed with respect to the said first-mentioned rules, and the same when so made and approved of shall be binding upon all members of the said profession of Attorney and Solicitor, and all persons seeking to become members of the said profession, and upon all persons seeking to be bound Apprentices to the same, and shall be sufficient in any Court of Law or Equity to justify all persons making or acting under the same, or according thereto; and such Lord Chancellor, Master of the Rolls and Judges for the time being, or the major part of them, are hereby required to approve or to disapprove in writing of such rules, ordinances, regulations and orders, or such altered, varied or amended rules, ordinances, regulations or orders, within *One* Month from the time at which the same shall be laid before them; and that in case the said Judges shall not express in writing their disapprobation of the said rules, ordinances, regulations and orders to the said Council of the said Corporation within the said period, such rules, ordinances, regulations and orders shall be final, binding and effectual to all intents and purposes as if the same had been approved of in writing by the said Lord High Chancellor

Chancellor, Master of the Rolls, Judges, or the major part of them as aforesaid.

17.

Power to
Council to
make Bye-
laws for their
own govern-
ance.

And be it Enacted, That the Council so nominated as aforesaid, and every future Council, shall have the power of framing and making
5 such bye-laws, rules and regulations for regulating the admission of members into such Society, and for the management of the affairs of the said Society, as they shall from time to time see fit, which bye-laws, rules and regulations shall from time to time be entered in a book or books to be kept for that purpose in the office of the said
10 Society, and subscribed by such Council so assembled, or their Chairman; and such bye-laws, rules and regulations shall be observed and performed until altered by any subsequent bye-laws, rules or regulations of the Council of the said Society for the time being, and shall be of as much force and effect as if the same had been specially in-
15 cluded in and enacted by this Act.

18.

Service of
process on the
Secretary,
good service.

And be it Enacted, That in all cases where it shall be necessary for any person or persons to commence or prosecute any suit or action at law or in equity against the said Society, it shall and may be lawful for such person or persons respectively to serve or
20 cause to be served a copy or copies of any writ or process whatsoever upon the Secretary for the time being of the said Society, which service and services shall be taken and adjudged in all Courts whatsoever to be good and effectual service and services upon the said Society to all intents and purposes whatsoever.

19.

Fees hereto-
fore payable
to King's
Inns, to be
paid to the
Society.

AND whereas, by the Acts now regulating the collection and management of stamp-duties in Ireland, the sum of Seven Pounds, part of the duty of Fifty Pounds upon each part of the Indentures binding an Apprentice to an Attorney, is made payable to the Treas-
25 urer of the said Society of the King's Inns, to be applied by him in such manner as the said Society shall direct: AND whereas, under the provisions of this Act, Attornies and Solicitors will no longer be required to become or be members of the said Society of King's Inns, and it is reasonable that the payment aforesaid, arising from the Apprenticeship of persons desirous of becoming Attornies and Solic-
30 itors, shall henceforward be made to the said Incorporated Society of Attornies and Solicitors; BE it therefore Enacted, That from and after the *passing of this Act* the said sum of Seven Pounds, part of the duty of Fifty Pounds upon each part of the Indentures binding an Apprentice to an Attorney, shall be paid to the Treasurer of the
35 said Incorporated Society of Attornies and Solicitors in Ireland, instead of to the Treasurer of the said Society of King's Inns, to be by the said Treasurer of the said Incorporated Society of Attornies and Solicitors in Ireland, applied in such manner as shall be directed by
40

such Incorporated Society; and that an account of the monies so from time to time to become payable and be paid to the Treasurer of the said Societies of Attornies and Solicitors in Ireland, shall be kept in like manner as by the said Acts is directed in respect of the same sums so heretofore payable to the Treasurer of the said Society of the King's Inns. 5

20.
Council to
appoint Exa-
miners of
Persons pro-
posing to be
admitted.

And be it Enacted, That the Council of the said Incorporated Society shall, at some time previous to *Michaelmas* Term in this present year, and at some time previous to *Michaelmas* Term in each succeeding year, appoint *Twelve* Attornies or Solicitors to be Examiners for one year, and until other Examiners shall be appointed, of all persons desirous of being admitted Attornies or Solicitors as aforesaid, and that any *Five* of such Examiners shall be competent to conduct the said examination; and that from and after the *passing of this Act* (subject to such appeal as hereinafter mentioned), no person shall be admitted to be sworn an Attorney or Solicitor of any of the said Courts of Law or Equity, except on production of a certificate signed by the major part of such Examiners actually present at and conducting his examination, testifying his fitness and capacity to act as an Attorney or Solicitor, as the case may be; such certificate to be in force only to the end of the term next following the date thereof, unless such time should be specially extended by the order of a Judge of such Court. 10 15 20

21.
Examination
to be held in
the Hall of
the Society,
and a term
notice to be
given of the
intention to
submit to it.

And be it Enacted, That such examinations shall be held in the Hall of the said incorporated Society, or, until such Hall be built, in such other place as the Council of the said Society shall appoint, on such days in each term as the said Examiners, or any *Five* of them, shall appoint; and that any person not previously admitted an Attorney or Solicitor of any of the said Four Courts, and desirous of being admitted, shall give a full term's notice in writing to the said Examiners of his intention to apply for examination, by leaving the same with the Secretary of the said Society, which notice shall be in the form number One, prescribed in the Fifth Schedule to this Act annexed. 25 30

22.
All persons
applying for
admission to
submit to
examination.

And be it Enacted, That every person so applying shall attend the said Examiners at such time or times and at such place as the said Examiners shall appoint, and shall answer such questions as the said Examiners shall then and there put to him by written or printed papers, touching his fitness and capacity to act as an Attorney or Solicitor, as the case may be. 35 40

23.
Certification
of Examina-
tion to be
given.

And be it Enacted, That upon compliance with the aforesaid regulations, and if the major part of the said Examiners actually present Act

at and conducting the said examination shall be satisfied as to the fitness and capacity of the person so applying to act as an Attorney, the said Examiners so present, or the major part of them, shall certify the same under their hands in the form number Two, in the Fifth Schedule to this Act annexed.

Provided, and be it Enacted, That in case any person shall be dissatisfied with the refusal of the said Examiners to grant such certificate, he shall be at liberty to apply for admission by petition to the Court in which he shall be desirous of being admitted, upon which no fee shall be required, and such petition shall be heard by such Court at such time as it shall appoint; and such Court shall, upon the hearing thereof, make such order as to it shall seem meet: Provided, That the petitioners shall cause *Ten Days'* notice in writing of the day appointed for such hearing, and also a copy of such petition to be given to the said Examiners by leaving the same with the Secretary of the said Society, and that the said Society by their Secretary, Counsel or Solicitor, may appear and be heard at the hearing of such petition, in opposition thereto or otherwise, as the said Society shall deem fit.

24.
Power of
Appeal
against Exa-
mination.

And be it Enacted, That the Judges of the said Courts respectively, if they shall see fit, shall, before they shall admit any person to be an Attorney or Solicitor, examine and inquire, by such further or other ways and means as they shall think necessary, touching the fitness and capacity of such person to act in that capacity; and if they respectively shall be satisfied that such person is duly qualified to be admitted to act in that capacity, then the said Judges of the said Courts respectively shall and they are hereby authorized and required to administer in open Court to such person the oath hereinafter directed to be taken by Attornies or Solicitors, and, after such oath taken, to cause such person to be admitted an Attorney or Solicitor, as the case may be, in such Court, and his name to be inrolled as an Attorney or Solicitor in such Court.

25.
Power to the
Judges to
make further
inquiries
before admis-
sion.

And be it Enacted, That every person who shall, pursuant to this Act, apply to be admitted and inrolled an Attorney in the said Courts of Chancery, Queen's Bench, Common Pleas or Exchequer, shall, before he is admitted and inrolled as aforesaid, take and subscribe the oath marked number Three in the Fifth Schedule to this Act annexed, instead of the oath or oaths heretofore usually taken by the Attornies or Solicitors of such Courts respectively; and it shall not be necessary for any person, for the purpose of admission as an Attorney or Solicitor of any Court in Ireland, after the *passing of this Act*, to take any other oath whatsoever; any law, statute or usage to the contrary notwithstanding.

26.
Attornies to
take oath on
admission.

27.
Names of
Persons ad-
mitted to be
inrolled.

And be it Enacted, That such officer of each of the said Courts of Chancery, Queen's Bench, Common Pleas or Exchequer, as the said Lord Chancellor or Master of the Rolls, Judges or Barons of such Courts respectively shall from time to time appoint to discharge such duty, shall and they are hereby respectively required from time to time, without fee or reward, to inrol the name of every person who shall be admitted an attorney or solicitor in the said respective Courts pursuant to the directions in this Act, and the time when admitted, in an alphabetical order in rolls or books to be provided and kept for that purpose in their said several offices, and to be open to public inspection, as the said Court shall direct.

28.
Persons
already ad-
mitted in one
Court, not
required to
give notice of
their inten-
tion to apply
for admission
in other
Courts.

Provided also, and be it Enacted, That it shall not be necessary for any person being an Attorney or Solicitor of any one of the said Courts of Law or Equity, as the case may be, and desirous of being admitted an Attorney or Solicitor of any other of the said Courts, to give any such notice to the said Society, or to undergo any such examination as hereinbefore mentioned, and that the said regulations in that behalf hereinbefore contained shall not be taken to extend to any such person: Provided nevertheless, That it shall be lawful for any such Court, if it shall so think fit, to direct such person to be examined in manner before mentioned as to his fitness to act in such capacity.

29.
No person
to be re-ad-
mitted with-
out giving
proper
notices.

Provided also, and be it Enacted, That any person who having been admitted an Attorney or Solicitor of any of the said Courts, and having ceased to practise in that capacity, and having had his name removed from the said Roll, shall at any time after be desirous of being re-admitted, and of having his name replaced on such Rolls, he shall cause a notice of his intention to apply for that purpose to be posted in the said Courts respectively, and a copy of such notice to be delivered to the Secretary of the said Incorporated Society *Six* Weeks at least before the commencement of the term in or as of which he may so propose to be re-admitted, and such notice shall state his place or places of abode at the time of posting and delivering the same, and during the time he shall have so ceased to practise as an Attorney or Solicitor, and his occupation during such time; and such person so applying shall attend the Examiners appointed by the Council of the said Incorporated Society, and answer all such questions as they shall think fit to put in reference to his occupation or otherwise during the said period in which he shall have so ceased to act as an Attorney or Solicitor, and all other matters proper or material to determine his eligibility to be re-admitted; and it shall not be lawful to replace the name of any such person on the said Rolls, or to re-admit him to be a Solicitor or Attorney of any such Court, unless the statements contained in the said notice shall be verified upon oath before some Judge of the Court, nor unless he shall produce to such Court a certificate signed by the Examiners of the said Society,

or

or by the *major* part of those present as aforesaid, that he is a fit and proper person to be re-admitted: Provided always, That in case any such person shall be dissatisfied with the refusal of such certificate, he may nevertheless apply by petition for re-admission to the said Court, giving the like notice to the said Society of the time appointed for the hearing of such petition as hereinbefore required in the case of persons dissatisfied with the refusal of the certificate to be obtained by persons for the first time applying for admission; and that, on the hearing of such petition, it shall be lawful for such Court to re-admit or refuse to re-admit such person, as it shall deem proper, after hearing the matter and any thing which may be alleged by the said Council, their Secretary, Counsel or Solicitors, or any of them.

Provided always, and be it Enacted, That nothing in this Act contained shall extend or be construed to extend to prevent the said Courts or any of them from examining and inquiring into the character and qualifications of such persons as shall apply to be admitted Attornies or Solicitors therein respectively, or from admitting or refusing to admit such persons in such manner, and with discretion, as the said Courts respectively have heretofore in that behalf lawfully used.

30.
Present Act
not to control
the existing
powers of the
Courts.

AND whereas several Acts have been from time to time passed regulating the offices of and belonging to or connected with the said Courts of Law and Equity in Ireland, but such Acts are defective in not having restricted the appointment to such offices to persons previously acquainted with the practice of the said Courts, and duly educated in the profession of the Law: AND whereas it is expedient, with a view to the more effectual discharge of the duties of such offices and the advantage of suitors in the said Courts, that provision shall be made in that behalf, and it is just and reasonable that such offices, should be set apart as a preferment for Attornies and Solicitors: AND whereas it is also necessary that the persons filling certain of the said offices should be disabled from practising in any other capacity; BE it therefore Enacted, That from and after the *passing of this Act* it shall not be lawful to appoint to any of the offices in the Second, Third and Fourth Schedules to this Act annexed, any person whomsoever not being at the time of such appointment an Attorney or Solicitor duly admitted and inrolled in some or one of the said Courts, and that it shall not be lawful to appoint to any of the offices in the Second Schedule to this Act annexed any person whomsoever not being at the time of such appointment, and not having been for *Ten Years* previously thereto, a practising Solicitor or Attorney duly admitted and inrolled in some or one of the said Courts, and that from and after the appointment of any Attorney or Solicitor to any of the offices contained and specified in the Second and Third Schedules to this Act annexed, such person

31.
Qualifications
of Persons fill-
ing the Office
in the Second,
Third and
Fourth Sched-
ules.

or persons shall, from and after the time of such his appointment to such office, cease and be altogether disabled from practising, directly or indirectly, as an Attorney or Solicitor in any Court or otherwise in Ireland : Provided always, That nothing in this Act contained shall extend or be deemed or construed to extend to affect or apply to the present possessors of any of the offices mentioned in the said Second, Third or Fourth Schedule to this Act annexed. 5

32.
Public Act.

And be it Enacted, That this Act shall be deemed, adjudged and taken to be a Public Act ; and be judicially taken notice as such, by all Judges, Justices and other persons, without specially pleading the same.

SCHEDULES

TO WHICH THE FOREGOING ACT REFERS.

THE FIRST SCHEDULE,

Containing the NAMES of the several ATTORNIES and SOLICITORS in Ireland who have formed themselves into a Society for the better Regulation of their Profession, and by this Act to be incorporated.

Josias Dunn.
William Goddard.
Isaac Ogle Glenney.
Richard Mead.
James Kelly.
Hill Wilson.
Thomas Babington.
George Armstrong.
Thomas Slacke.
John Vincent Horan.
Charles Mears.
Henry Ryan.
William Smith.
William Christian.
Edward Elliott.
Bernard Maguire.
Edward Tandy.
Richard A. Walker.
Villiers B. Fowler.
Theophilus Digges La Touche.
Alexander Bate.
George Kelly.
George Westropp.
John Greene.
John A. Hunter.
Richard P. Tighe.
Arthur Bushe.
Henry Staines.
Patrick Clarke.
John Vincent.
Thomas Black.
Thomas Carmichael.
Hezekiah O'Callaghan.
Charles Geoghegan.
James Armstrong Peebleslo.
Denis Burke.
John Rorke.
William Cullen.
James O'Shaughnessy.
Richard Babington.
Thomas Purcell.
Adam John Macrery.
Edward Maguire.
William Tucker.
Thomas John Beasley.
William T. Kent.
John Carroll.

Samuel Dudgeon.
Francis James Card.
George Dartnell.
John Walshe.
John Blennerhassett.
Welsley Pole Fletcher.
William Grisson.
Edward W. Cooper.
Henry P. Woodroffe.
Joseph Scott Moore.
Charles O'Doherty.
Usher Beere.
Richard Echam.
John Thomas Kiff.
Robert McNaghten.
Wills Hill Macredy.
John Hazlett.
Richard T. T. Orpen.
George Barclay.
William Cranston.
John Hall.
E. Simmonds.
William T. M. Frazer.
Robert Cope Hardy.
William Roche.
Samuel Knox.
Charles Stack.
Carden Terry.
William Hopford Hunt.
George Connor, junior.
Edward Jones.
John McMahon.
David Bell.
William Duckett.
John Moffett.
James O'Dowda.
William Sterne Hart.
Arthur Barlow.
Robert Power.
John Boyse.
John Henry Norton.
William Woodroffe.
Michael Mortimer.
John Faris.
L. P. Parke.
Torton Samuel Walker.
William H. Bradish.

William Young.
Robert Murdoch.
A. C. Palles.
R. W. Scallan.
J. A. Griffiths.
George Kerman.
William Galway.
Thomas Conry.
Thomas Beasley.
John Litton.
James M'Cormick.
James Bate.
James Watt.
Felix Boylan.
William Magrath.
William Woodlock.
Charles Gaussen.
Henry C. Sweny.
Thomas Edmund Wright.
Jame Elliott.
Thomas Copperthwaite.
Anthony R. Kearney.
Edward Crawford.
Edward Reynolds.
Peter Thomas Legh.
Gustavus Hamilton.
Patrick Fitz Patrick.
Christopher William Campion.
William Collins.
William Roe.
George Robert M'Grath.
Matthew Franks.
John William Browne.
John Maher.
Henry Cummins.
Christopher Reynolds.
John Parker.
James Cowley, junior.
Brabazon Brown.
Nicholas Keatinge.
G. Fetherstone.
Godwin Swift.
Latham Blacker.
Robert Storey.
William Henry M Grath.
William Hamilton Roe.
Abraham Coates.
Alexander Sym mons.
George J. Smith.
George Pilkington.
William Miller.
Samuel Wanchob.
George Little.
Samuel Fewtrell.
John Murphy.
Pierce Mahony.
Thaddeus William Murphy.
W. H. Crawford.
Charles O'Connor.
Terence O'Reilly.
Henry Southwell.
Lynn Carew.
George Archer.

William White.
James Blakeney.
Oliver Anslem Tibedean.
Thomas Ardill.
Robert Maunsell.
John Orpen.
William Tatlow.
Thomas S. Fleming.
William Pabuckson Pike.
John C. Lyons.
Henry Purcell.
Edward Blakeney.
Dillon McNamara.
Thomas S. Snagg.
Joseph Lindsey Curtis.
Michael Gallenly.
David Ryan.
Robert Smith.
Keith H. Hallowes.
Henry Farange.
Robert Simpson.
William McDermott.
William Thomas Graham.
Walter Góold.
George William Murray.
Richard Montgomery.
Stephen Blake.
William Taylor, junior.
William O'Hara.
William Gibson.
Thomas Courtenay.
Richard Prendergast.
Benjamin Hinde.
William Middleton.
Joseph Hone, junior.
John Smyth.
Robert Jones.
Richard Cathcart.
Nathaniel Montgomery.
George Hines.
John Kane.
Joseph McMin junior.
John Creed.
Thomas Reilly.
David Mahony.
William Bailey Wallace, junior.
John Browne.
George Rankin.
Charles Wilton.
William Henry Carroll.
William Ford.
Terence T. Dolan.
Patrick Scott.
Robert Simpson.
Edward O'Berne.
Edward Murray.
Matthew Barrington.
John Rorke.
E. W. Seymour.
John Kelly.
Edward Mooney.
John Russell.
Pat. A. Taaffe.

THE SECOND SCHEDULE,

Containing a SPECIFICATION of the OFFICES and PLACES required to be filled by ATTOR-
NIES or SOLICITORS of Ten Years' standing at the least, and the Appointment to which
Offices renders such Attornies or Solicitors thereafter incapable of practising as an
Attorney or Solicitor.

THE Offices or Places of Prothonotaries of the Courts of Queen's Bench and Common
Pleas.

The Clerk of the Pleas of the Law side of the Court of Exchequer.

The Taxing Officers.

The Registrars of the Court of Chancery, and the Equity side of the Court of Exche-
quer.

The Clerk of the Crown of the Court of Queen's Bench.

The Assistant Registrar of the said Court of Chancery.

The Accountant-General of the Court of Chancery.

The Deputy Keeper of the Rolls of Chancery.

The Clerks of the Rules of the Courts of Queen's Bench, Common Pleas and Exchequer.

The Filacers and Clerk of the Pleadings of the said Courts of Queen's Bench, Common
Pleas and Exchequer.

The Chief Examiners of the Courts of Chancery and Exchequer.

The Filacer of the Equity side of the Exchequer.

The Secondary of the said Court of Exchequer.

The Clerk of the Crown and Hanaper in Chancery.

The Readers or Clerks in Court of the Court of Chancery and Rolls Court.

The Clerk of Appearances and Writs in Chancery.

The Clerk of Affidavits in Chancery.

The Solicitors of Customs, Excise and Stamps.

The Registrar and First Assistant Registrar of Deeds.

THE THIRD SCHEDULE,

Containing a SPECIFICATION of the OFFICES or PLACES to be filled by ATTORNIES or
SOLICITORS of any number of Years' standing, the appointment to which Offices renders
such Attorney or Solicitors thereafter incapable of practising as such Attorney or
Solicitor.

THE Accountant-General of the Court of Exchequer.

The Assistant-Registrar of the Court of Exchequer.

The Principal and Second Assistants and three General Clerks to the Prothonotaries,
and the Clerks of the Pleas of the Courts of Queen's Bench, Common Pleas and Ex-
chequer.

The Second Assistant Registrar of Deeds.

The Chief Clerk of the Insolvent Court.

The Clerk of Writs, Appearances and Attachments in the said Three Law Courts.

The Clerk of Recoveries and Inrolments.

The Clerk of Pleadings and Affidavits.

The Clerk of Juries, and the Chirographer of the Court of Common Pleas.

The Four Examiners in aid of the Court of Chancery.

The Examiner in aid of the Equity side of the Exchequer.

The First Clerk in the Office of the Deputy Keeper of the Rolls.

The First Clerk in the office of the Accountant-General of the Court of Chancery.

The Clerk of Recognizances, and the Pursuivant of the Court of Chancery.

The Seal-keepers of the three Superior Law Courts.

The Usher of the Court of Exchequer.

The Chief Clerk in the Chief and Second Remembrancer's Office of the Court of Ex-
chequer.

The Registrar, Second Clerk, Provisional Assignee and Receiver in the Insolvent Court.

The Registrar in the Court of Bankruptcy.

The Chief Clerk in the Registry of Deeds Office.

The Chief and Second Clerk in the Office of the Registrar of the Court of Chancery.

The First Clerk in the Office of the Clerk of the Writs and Appearances in Chancery.

The First Assistant Clerk in the Office of Clerk of Affidavits in Chancery.
 The Registrar and Clerk of the Faculties in Chancery.
 The Clerk of Inrolments in Bankruptcy.
 The Messengers to the Commissioner of Bankruptcy.
 The Assistant Messenger to same.
 The First and Second Clerks in the Insolvent Court.

THE FOURTH SCHEDULE,

Containing a SPECIFICATION of the remaining OFFICES or PLACES to be filled by ATTOR-
 NIES or SOLICITORS of any number of Years' standing, but the appointment to which
 Offices does not render such Attornies or Solicitors thereafter incapable of practising as
 an Attorney or Solicitor.

THE Clerks of Nisi Prius or Registrars to the several Judges and Barons of the three Law
 Courts in Ireland.
 The Solicitors for Minors and Lunatics.
 The Serjeants and Deputy Serjeants at Arms.
 The Clerk of the Custodies of Idiots and Lunatics.
 The Clerk of the Errors of the Court of Exchequer Chamber.
 The Registrar of the Court of Appeals.
 The Registrar to the Recorder of the City of Dublin.
 The Registrar to the Chairman of the Quarter Sessions of the County of Dublin.
 The Solicitor to Forfeited Estates in Ireland.
 The Crown Solicitors in Ireland.
 The Town Clerks and Clerks of the Peace of the several Counties, Counties of Cities, Cities
 and Counties of Towns in Ireland.
 The Clerks of the Crown of the several Counties, Cities, and Counties of Towns in Ireland.
 The Crown Solicitors at Quarter Sessions in Ireland.

THE FIFTH SCHEDULE.

No. 1.

I, A. B., son of _____ of _____ and _____
 otherwise _____ his wife, now residing at _____ who was on the
 _____ day of _____ bound Apprentice to _____
 Attorney and Solicitor, for a period of _____ years, and am now concluding my appren-
 ticeship with _____ Attorney and Solicitor, do hereby give notice,
 That the term of my apprenticeship will expire upon the _____ day of _____
 next, and that with the view of being admitted and inrolled an Attorney of the Court of
 _____ in Ireland, I intend to offer myself for examination before the Examiners
 of the Incorporated Society of Attornies and Solicitors in Ireland in the next
 Term. Dated this _____ day of _____ One thousand eight hundred
 and Thirty-

No. 2.

IN pursuance of an Act passed in the first year of the reign of Her Majesty Queen
 VICTORIA, intituled, [here set out the title of the Act,] We, being the major part of the
 Examiners actually present at and conducting the examination of A. B., of, &c., Do hereby
 certify, That we have examined the said A. B., and we do certify that the said A. B. is fit
 and qualified to be admitted and inrolled an Attorney of the Court [name the Court] in
 Ireland. Dated this _____ day of _____ One thousand eight hundred
 and Thirty-

No. 3.

I, A. B., do swear, That I will truly and honestly demean myself in the practice of an
 Attorney [or Solicitor, as the case may be], according to the best of my knowledge and
 ability. So help me GOD.

Attornies and Solicitors.

(Ireland.)

A

B
I
L
L

For the better Regulation of the Profession
of Attorney and Solicitor in Ireland, and
the several Offices connected therewith.

(*Prepared and brought in by*
Mr. Hamilton and Mr. West.)

Ordered, by The House of Commons, to be Printed,
30 June 1837.



(Ireland.)

A

B I L L

To postpone for a limited Time the Repayment of certain Sums
advanced by the Bank of Ireland for the Public Service.

[Note.—The Words printed in *Italics* are proposed to be inserted
in the Committee.]

5 **W**HEREAS an Act was passed in the first and second years
of the reign of his Majesty King GEORGE the Fourth, in-
titled, “An Act to establish an Agreement with the Governor
and Company of the Bank of Ireland, for advancing the Sum of
Five hundred thousand Pounds, Irish Currency, and to empower the
said Governor and Company to enlarge the Capital Stock or Fund
of the said Bank to Three Millions :”

Preamble :
1 & 2 G. 4.
c. 72.

10 And whereas another Act was passed in the third year of the reign
of his said Majesty King GEORGE the Fourth, intituled, “An Act to
reduce the rate of Interest payable on the Sum of One million two
hundred and fifty thousand Pounds, advanced by the Governor and
Company of the Bank of Ireland for the Public Service, under an Act
made in the Forty-eighth Year of his late Majesty :”

15 And whereas the respective sums of Five hundred thousand Pounds
and One million two hundred and fifty thousand Pounds, advanced by
the Governor and Company of the Bank of Ireland for the Public
Service, were by the said Acts directed to be repaid on the First day
of January One thousand eight hundred and Thirty-eight :

And whereas the Governor and Company of the Bank of Ireland
have agreed that the time for such repayment should be postponed ;

Time for re-
payment post-
poned.

BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the said respective sums of Five hundred thousand Pounds, Irish currency, and One million two hundred and fifty thousand Pounds, Irish currency, shall be repaid to the Governor and Company of the Bank of Ireland on the *First day of January One thousand eight hundred and Thirty-nine*, instead of the First day of January One thousand eight hundred and Thirty-eight, as directed by the said Acts; and that all powers, provisions, matters and things in the said Acts contained relating to the said Sums and to the said Day, shall extend to the Day hereby appointed for the repayment of the said Sums, in the same manner as if the *First day of January One thousand eight hundred and Thirty-nine* had been originally named in the said recited Acts.

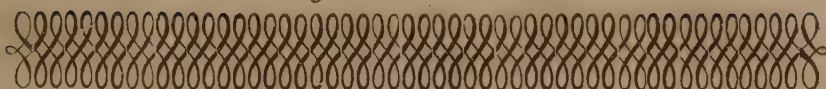
Bank of Ireland.

B I L L

To postpone for a limited Time the Repayment of certain Sums advanced by the Bank of Ireland for the Public Service.

(Prepared and brought in by
*Mr. Chancellor of the Exchequer and
Mr. Baring*)

*Ordered, by The House of Commons, to be Printed,
3 July 1837.*



A

B I L L

To Amend the Laws relating to Bankrupts.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS complaints have been made that Property to a considerable amount belonging to the Estates of Bankrupts has not been collected under Commissions or Fiats in Bankruptcy, which have heretofore issued and been directed to Commissioners in the country, or if collected, has not always been applied to the use of the persons entitled to the same: Preamble:

And whereas the usual proceedings to recover the same cannot be instituted by Creditors except at great expense, by reason whereof such property may be misapplied; ~~BE it therefore Enacted~~, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT it shall be lawful for the Lord Chancellor to issue from time to time as to him may seem proper, by instrument in writing under his hand, *One* or more Commission or Commissions, each directed to some one Commissioner, being one of the Commissioners of the Court of Bankruptcy, or being a person qualified to be a Commissioner of that Court, to act for such county or counties, district or districts, as to the Lord Chancellor may seem fit; and it shall be lawful for the Lord Chancellor to name *One* fit person to attend each such Commissioner as his Registrar, and *One* or more person or persons to act as Official Assignee or Assignees to such Commissioner; and such Commissioner so to be appointed shall be and he is hereby authorized to examine the proceedings under any Commission or Fiat in Bankruptcy already issued or hereafter to be issued, and to proceed in the discovery of property belonging to any Bankrupt's estate within the district to

1.
Power to Lord
Chancellor to
appoint Dis-
trict Commis-
sioners to in-
quire into
Commissions
and Fiats
executed in
the Country.

which such Commission may extend, and to ascertain what part of such estate has been received, and how the same has been applied, and what dividends have been ordered, and what payments have been made thereon ; and for these purposes such Commissioner shall possess all the powers for the purpose of compelling the attendance of Bankrupts, Witnesses, Solicitors and other Officers, and for examining them on their oaths ; and all powers of committal and other powers which are now possessed by the major part of the Commissioners to whom any such Commission or Fiat may have been directed, or which would have been possessed by them in case such Commissioners were now in existence, and such Commission or Fiat were in a course of prosecution.

2.
Commissioners to report to Lord Chancellor the Proceedings on such Commission.

And be it Enacted, That every Commissioner appointed under the powers of this Act, shall from time to time report to the Lord Chancellor the nature and result of any proceedings taken by him by virtue of any such Commission, and the Lord Chancellor may thereupon order any monies which any such Commissioner may find to have been received or which may be received under any Commission or Fiat to be paid into the Bank of England in the name of the Accountant in Bankruptcy to the credit of an account to be intituled, "The Country Bankrupts' Account," subject to the order of the Lord Chancellor, who is hereby authorized to make such order for the distribution thereof or otherwise in relation thereto as the exigency of the case may require.

3.
Duties and Powers of Official Assignees.

And be it Enacted, That it shall be lawful for any Commissioner to be nominated as aforesaid to appoint some one fit and proper person, either alone or jointly with any Creditor's Assignee or Assignees, as to such Commissioner shall seem meet, to act as Official Assignee for the estate of any Bankrupt against whom any Commission or Fiat shall have issued or shall hereafter issue within the district of said Commissioner, and as to whose estate the said Commissioner may think that an Official Assignee ought to be appointed ; and from and after such appointment all the personal estate and effects and the rents and profits of the real estate and the proceeds of the sale of all the estate and effects real and personal of the Bankrupt, shall in every case be possessed and received by such Official Assignee alone, save where it shall be otherwise directed by such Commissioner ; and all Stock in the public Funds or any public company, and all bills, notes and other negotiable instruments, shall be forthwith transferred, delivered, remitted and paid by such Official Assignee into the Bank of England, to the credit of the Accountant in Bankruptcy, to be subject to such orders, rules and regulations for the keeping of the account of the said monies and other effects, and for the payment and delivery in investment and payment and delivery out of the same as the Court of Review by

by any general order to be made with the approbation of the Lord Chancellor shall direct, and if any such Assignee shall neglect to make such transfer, delivery or payment, every such Assignee shall be liable to be charged in such manner as by an Act passed in the first and
 5 second years of the reign of His present Majesty, intituled, " An Act to establish a Court in Bankruptcy," is directed or provided in cases of neglect by Assignees to invest money in the purchase of Exchequer Bills when directed so to do.

And be it Enacted, That all real and personal estate of any Bank-
 10 rupt or Bankrupts shall from and after the appointment of any Official Assignee to any such Bankrupt's estate be vested in such Assignee, in such manner as is prescribed by the said before-mentioned Act with respect to official Assignees therein mentioned; and such official Assignees shall have full power and authority to sell and convert the
 15 same into money, and to collect in the same as to him shall seem fit.

4.
Real and Per-
sonal Estate,
how to vest
in Official
Assignees.

And be it Enacted, That every such Official Assignee shall be re-
 munerated for the trouble and expenses attendant upon the duties of
 his office out of the Estate of any Bankrupt committed to his charge,
 in such manner and to such extent as shall be prescribed by any gene-
 20 ral rule or order of the Court of Review, to be approved and sanc-
 tioned by the Lord Chancellor.

5.
Remunera-
tion to Officia
Assignees.

And be it Enacted, That there shall be paid to every Commissioner
 and every Registrar acting under the powers of this Act, for the
 period during which he shall so act, the sums of money hereinafter
 25 mentioned; (that is to say) to every Commissioner not being a
 Commissioner of the Court of Bankruptcy, a sum at the rate of
Twelve hundred Pounds per annum for the period during which he
 shall be so employed; and to every Commissioner of the Court of
 Bankruptcy at the rate of *Five hundred* Pounds per annum for the
 30 period during which he shall be so employed, in addition to his salary
 as such Commissioner of the Court of Bankruptcy; to every Regis-
 trar not being a Registrar or Deputy Registrar of the Court of Bank-
 ruptcy, a sum at the rate of *Five hundred* Pounds per annum for the
 period during which he shall be so employed; and to every Registrar
 35 or Deputy Registrar of the Court of Bankruptcy, a sum at the rate of
Two hundred Pounds per annum for the period during which he shall
 be so employed, in addition to his salary as such Registrar or Deputy
 Registrar of the Court of Bankruptcy.

6.
Allowances to
Commis-
sioners.

And be it Enacted, That, in addition to the said salaries, there shall
 be paid to every such Commissioner and Registrar, as and for his
 travelling and other needful expenses under this Act, such sum of

7.
Expenses to
be paid.

money as the Court of Review by any order of the said Court may direct.

8.

Fees to be
received by
Registrars.

And be it Enacted, That there shall be paid out of the Estate of every Bankrupt the sum of *Five* Pounds for every meeting or adjourned meeting in the affairs of such Bankrupt held by any Commissioner acting under this Act; which sum shall be received by the Registrar acting under such Commissioner, from the official or other Assignee or Assignees of such Estate, and be by him paid into the Bank of England in the name of the said Accountant in Bankruptcy to the credit of the said Account, intituled, "The Secretary of Bankrupts' Account." 5 10

9.

How Salaries
and Expenses
to be paid.

And be it Enacted, That it shall be lawful for the Lord Chancellor to order that all sums payable to any such Commissioner or Registrar for salaries or expenses aforesaid, shall be paid out of the monies in the Bank of England, now or hereafter to be standing in the name of the Accountant in Bankruptcy, to the Account, intituled, "The Secretary of Bankrupts' Account." 15

10.

The Lord
Chancellor to
cause Returns
to be made to
the House of
Commons.

And be it Enacted, That the Lord Chancellor shall *Once* in every year cause a Return to be made to the House of Commons, specifying therein the amount of the sums reported by each Commissioner appointed under the powers of this Act, and the sums paid to or retained by any such Commissioner or Registrar, or any Official Assignee or other Officer acting under him, for remuneration or expenses. 20

11.

Taxing
Officers to be
appointed.

AND whereas it is expedient that there should be an uniform system of taxing Solicitors' Bills in matters of Bankruptcy; BE it therefore Enacted, That so much of the Act passed in the sixth year of his late Majesty King GEORGE the Fourth, intituled, "An Act to amend the Laws relating to Bankrupts," as relates to ascertaining Costs and settling Bills of Fees or Disbursements of any Attorney or Solicitor, by the Commissioners or by a Master in Chancery, shall be and the same is hereby repealed; and that the Lord Chancellor may appoint *One* or more of the Registrars or Deputy Registrars of the Court of Bankruptcy, or such other person or persons as he may think fit, to tax all the Bills of Costs under Commissions or Fiats in Bankruptcy not prosecuted in the Court of Bankruptcy, and that such person or persons so appointed shall be called the "Taxing Officer or Officers in matters of Bankruptcy;" and every Attorney or Solicitor who may produce any Bill of Costs to be taxed by any such Taxing Officer shall pay to such Taxing Officer for taxing the same, such sum as the said Court of Review may from time to time by any general order with the approbation of the Lord Chancellor direct; and if any Creditor of any Bankrupt shall be dissatisfied with any settlement of Bills of 25 30 35 40 of

of Costs heretofore taxed or allowed by the Commissioners in any Bankruptcy not prosecuted in the Court of Bankruptcy, it shall be lawful for the Court of Review, on application of such Creditor, to order such Bills of Costs to be re-taxed by one of such Taxing Officers; and no Solicitor or Attorney shall demand, sue for or receive payment from any Assignee or Assignees of any Bankrupt's estate of any Bill of Costs for business done or to be done by him in any matters relating to Bankruptcy or the estates of Bankrupts, without first obtaining thereto the Allocatur of one such Taxing Officer; nor shall any Commissioner or Commissioners allow any item or charge for any payment made in respect of any such business in auditing the Accounts of any Assignee or Assignees without the production of such Allocatur.

AND whereas it may be expedient to appoint one or more additional Clerks in the office of the Accountant in Bankruptcy, for the purpose of establishing a sufficient check on the accounts in the said office, and the sum now allowed for the salaries and expenses of the said office may be insufficient for those purposes; BE it Enacted, That it shall be lawful for the Lord Chancellor, if to him it shall appear necessary, to appoint one or more additional Clerk or Clerks and one or more Messenger or Messengers in the office of the said Accountant; and in addition to the annual sum of One thousand Pounds now allowable to the Clerks of the Accountant in Bankruptcy, and to defray the charges of stationery and other expenses of the said office, to order the payment in any one year of any sum or sums for the salaries of the said Clerks, and the discharge of such expenses as to him may seem proper, provided that such sum or sums do not in the whole exceed in any one year the sum of *One thousand Five hundred Pounds*.

12.
Provision for Expenses of the Office of the Accountant in Bankruptcy.

And be it Enacted, That the surplus Fees authorized to be received by the First Schedule of Fees contained in the Act passed in the first and second years of the reign of His present Majesty, intituled, "An Act to establish a Court in Bankruptcy," shall no longer be retained by the Secretary of Bankrupts for his own use, but shall be paid by him into the Bank of England, to the credit of the Accountant in Bankruptcy, to the Account, intituled, "The Secretary of Bankrupts' Account," and be applicable to all the purposes of the said Account.

13.
Appropriation of Surplus Fees receivable by the Secretary of Bankrupts.

AND whereas Official Assignees of the Estates of Bankrupts are deemed to be necessary parties to proceedings in Courts of Justice, in which the estates of Bankrupts are interested, and as such are responsible for Costs jointly with the Assignees or Assignee chosen by the Creditors, and it is fit that they should be exempt from all liability for

14.
Official Assignees not liable for Costs.

Costs where they sue or are sued jointly with the Assignee or Assignees chosen by the Creditors ; BE it Enacted, That wherever an Official Assignee sues or is sued jointly with the Assignee or Assignees chosen by the Creditors, he shall not be liable to pay Costs to the opposite party or to the Solicitor or Attorney employed by the Assignees, but that the Assignees or Assignee chosen by the Creditors shall alone be liable to pay such Costs. 5

15.
Power to
Commissioners to
commit for
riot or
obstruction.

And it is hereby Enacted, That every Commissioner of the Court of Bankruptcy, and every Commissioner to be appointed under this Act, shall have full power, and he is hereby authorized to commit to custody in any prison for any term not exceeding *One Month* any person who shall be guilty of any riot or disturbance in any Court held by such Commissioner, or who shall interrupt or obstruct the said Commissioner in the exercise of his duty. 10

16.
Powers to
Lord Chan-
cellor to ex-
tend to Lord
Keeper and
Lords Com-
missioners.

And it is hereby Enacted, That wherever in this Act the words Lord Chancellor are used, they shall also be understood to mean Lord Keeper and Lords Commissioners for the Custody of the Great Seal. 15

Bankrupts.

A

B I L L

To Amend the Laws relating to Bankrupts.

(Prepared and brought in by
Mr. Solicitor General and Mr. Attorney General.)

Ordered, by The House of Commons, to be Printed,
30 May 1837.

54



A

B I L L

For regulating the Sequestration of the Estates of Bankrupts in Scotland.

[Note.—The Words and Figures printed in *Italics* are proposed to be inserted in the Committee.]

WH E R E A S an Act was passed in the fifty-fourth year of the reign of his Majesty King GEORGE the Third, intituled, “An Act for rendering the Payment of Creditors more equal and expeditious in Scotland,” which has been continued by several subsequent Acts, but is now about to expire; and it is expedient that it should be repealed (except in so far as hereinafter continued), and that provisions be made in place thereof; *Be it therefore Enacted*, by The KING’s most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the said recited Act shall be and is hereby continued until the

Preamble.
54 Geo. 3,
c. 137.
3, 4, 6, 7, 8,
& 10 Geo. 4.
1 Will. 4.
2 Will. 4,
c. 35.
4 & 5 Will. 4,
c. 74.

1.
Commence-
ment of this
Act, and 54
Geo. 3, in
part repealed.

, when this Act shall commence and take effect; and from and after the said the said recited

Act shall be and is hereby repealed, except as hereinafter provided.

And be it Enacted, That the said recited Act shall remain in force in so far as, not being inconsistent with this Act, it relates to the construction and effect of an Act of the Parliament of Scotland made in the year One thousand six hundred and ninety-six, intituled, “An Act for declaring Notour Bankrupts,” and also in so far as, not being inconsistent with this Act, it relates to Arrestments,

2.
54 Geo. 3,
c. 137, to
remain in
force in cer-
tain cases.
1696, c. 5.

Poindings of Goods, Inhibitions, Charges to enter Heir, Adjudications, Judicial Sales, Poindings of the Ground, Registration of Sasines, Dispositions, and Assignations not requiring Sasine, and Securities for Cash Credits ; and generally in relation to Diligence and the forms thereof, until the same shall be altered by authority of Parliament. 5

3.
Depending
Sequestra-
tions to be
proceeded in
under recited
Acts.

And be it Enacted, That all Sequestrations depending at the commencement of this Act shall (except as hereinafter provided) be proceeded in under the provisions of the said recited Act.

4.
Construction
and Meaning
of Words.

And be it Enacted, That in construing this Act the word " Lord 10
Ordinary " shall mean the Lord Ordinary officiating on the Bills in
the Court of Session ; that the word " County " shall include
Sheriffdom, Shire and Stewartry, and every Ward, District or
Division thereof ; that the word " Sheriff " shall include Sheriff Sub-
stitute, and Stewart, and Stewart Substitute ; that the word " Sheriff 15
Court " shall include Stewart Court ; that the word " Sheriff Clerk " shall include Sheriff Clerk Depute, Stewart Clerk, and Stewart Clerk Depute ; that the word " Commissioners " shall mean a majority of the Commissioners hereinafter mentioned ; that the word " Estates " shall comprehend every kind of property, heritable or moveable, real 20
or personal, and all lands, tenements and hereditaments wherever situated, and any part thereof ; that the word " Deliverance " shall include an Order, Warrant, Judgment, Interlocutor, and Decree ; that the word " Security " shall include all Securities, heritable or move-
able, real or personal, and all Liens and Preferences, and all Con- 25
veyances thereof ; that the word " Successors " shall [mean heirs, heirs apparent, representatives by deed or otherwise, executors and nearest of kin, and also assignees and singular successors, where they have acquired the right ; that the word " Month " shall mean a Calendar Month ; that the word " Oath " shall include 30
Affirmation, where by law such Affirmation shall be required to be taken in place of an Oath ; that the word " Vote " shall, as well as the ordinary meaning thereof, import a consent to any offer of composition and to a discharge of the Debtor, and also a dissent from such offer or discharge, and generally any act as a Creditor ; 35
that the words " Debtor," " Bankrupt " and " Creditor " shall mean Bodies Corporate, Politic or Collegiate, Companies or Partnerships, as well as Individuals, and shall, as well as all other words importing the singular number and masculine gender, include several persons as well as one person, and females as 40
well as males, and several matters of the same kind as well as one matter, unless it shall be otherwise provided, or the subject-matter or context be repugnant to such construction : And this Act shall be construed in the most beneficial manner for promoting the ends hereby intended, and shall include married women
carrying

Act to be
construed be-
neficially for
the ends
thereof.

carrying on trade independent of their husbands, and widows and aliens, provided they fall within any of the descriptions hereinafter mentioned.

And be it Enacted, That the said Act made in the year One thousand six hundred and ninety-six shall, in so far as it relates to the description of Notour Bankruptcy, be and it is hereby repealed (saving the effect of the said Act as to cases of Notour Bankruptcy before the commencement of this Act) : And after the commencement hereof, if a debtor, being within Scotland, shall be lawfully charged to pay a civil debt amounting to not less than *Twenty* Pounds, and shall fail to pay the debt, it shall be competent, on the expiration of the days of charge, to denounce him insolvent, by executing against him, in the same way as charges are executed, but without any further induciæ, a Denunciation in the form of the Schedule (A.) hereunto annexed ; and the Messenger or other competent Officer who executes the same shall return an Execution of Denunciation in the form of the Schedule (B.) hereunto annexed ; and if the execution of denunciation be registered within *Fifteen* days from the date of the expiration of the charge in a Register of Notour Bankrupts, which shall be kept at Edinburgh by the Clerk of the Bill Chamber, the debtor shall be held to be Notour Bankrupt from the date of such registration ; and the said Clerk shall, on the execution being presented to him, record the execution in the said Register, and enter therein, and also write on the said execution, a Certificate in terms of the Schedule (C.) hereunto annexed ; and the service-copy of the said charge, and the execution thereof, and the service copy of the said denunciation, and the execution thereof and the said certificate, may be printed or written, or partly both.

5.
Notour
Bankruptcy,
1696, c. 5.

By expired
Charge of
Payment with
registered
Denunciation
of Insolvency.

Register to be
kept by Bill
Chamber
Clerk.

And be it Enacted, That if a debtor shall after the commencement of this Act be apprehended or imprisoned on diligence for civil debt, he shall be held Notour Bankrupt at and from the date of such apprehension or imprisonment.

6.
Notour
Bankruptcy
by Apprehen-
sion or Impri-
sonment.

And be it Enacted, That if a debtor who is subject to the laws of Scotland shall be forth thereof, and be charged on induciæ of *Thirty* Days, at the Office of Edictal Citations of the Court of Session, to pay a civil debt amounting to not less than *Twenty Pounds*, shall fail to pay the debt, it shall be competent, on expiry of the days of charge, to denounce him insolvent at the said office in the same way as is hereinbefore provided for a Debtor within Scotland ; and the registration of the execution of such denunciation within *Fifteen* Days from the date of such execution in the Register of Notour Bankrupts, joined with an arrestment of the debtors' effects not loosed or discharged within *Fifteen* Days after the date of its execution,

7.
Mode of
rendering
Debtor forth
of Scotland
Notour
Bankrupt.

Absence from
Scotland, how
ascertained.

execution, or with a pouding of his moveables, or with a decree of adjudication for payment or security of debt of any part of his estate, provided he be in these several cases insolvent, shall render him Notour Bankrupt as at the date of the said registration: And where he shall have abandoned his ordinary place of residence in Scotland for *Forty* Days, and has not some other known residence within Scotland, or has not left notice at his place of residence where he is to be found within Scotland, and he is not found there, he shall, on an execution of a Messenger or other competent Officer being returned to that effect, be held for the purposes of this Act to be forth of Scotland.

8.

Notour
Bankruptcy
by Sequestra-
tion.

And be it Enacted, That the awarding of sequestration in terms of this Act shall render the debtor Notour Bankrupt as at the date of the first deliverance on the Petition for Sequestration, without prejudice always to such debtor being held bankrupt, if he shall previously have been denounced, apprehended, or imprisoned as aforesaid.

9.

Sequestration
of Estates of
Debtors
without their
consent.

And be it Enacted, That the estates of any person subject to the laws of Scotland, who is a merchant, trader, manufacturer, banker, broker, warehouseman, wharfinger, underwriter, artificer, packer, builder, carpenter, shipwright, innkeeper, hotel-keeper, cattle-dealer, grain-dealer, dyer, printer, bleacher, fuller, calenderer, or who, either for himself, or as agent or factor for others, seeks his living, or a material part thereof, by buying and selling, or by buying and letting for hire, or by the workmanship of goods or commodities, or by any of the said occupations in partnership with another; and the estates of any company subject to the laws of Scotland, and which is engaged in any of the said occupations, shall, in the said several cases, be liable to sequestration in terms of this Act without the consent of such person or company, provided that such person or company be Notour Bankrupt, and has carried on business in Scotland in any of the said occupations, and that such person or one of the partners of such company has resided in Scotland within a *Year* before the date of presenting the Petition for Sequestration: But it shall not be competent to sequester the estates of any company incorporated or established by Act of Parliament or by Charter without the consent of all the partners of such company; nor the estates of any person as a partner of such company, or of an insurance company against fire, unless such person consent, or unless his bankruptcy be caused by the bankruptcy of such company; nor shall it be competent to sequester the estates of any landholder or farmer as such, unless he consent, or unless he be bonâ fide a dealer in cattle, which is not the produce of, nor grazed, nor worked on his farm, or be a dealer in grain not produced thereon.

And

And be it Enacted, That the estates of every debtor who is subject to the laws of Scotland, and who holds estates heritable or moveable within Scotland, may be sequestrated, although he be not Notour Bankrupt, provided that such debtor shall petition for Sequestration, with the concurrence of one or more creditors, qualified as hereinafter mentioned; and if the petition is not signed by the debtor, a mandate by him, authorizing such petition, shall be therewith produced.

10.
Sequestration
of Estates of
Debtors with
their consent.

And be it Enacted, That Sequestration may be applied for of the estates of any deceased debtor by one or more of his creditors, qualified as hereinafter mentioned, provided that at the time of his death he resided or carried on business in Scotland, and held at that time heritable or moveable estates in Scotland: But no such Sequestration shall be awarded until the expiration of *Six Months* from the debtor's death, unless he shall have granted a mandate to apply for Sequestration, or was at the time of his death Notour Bankrupt, or unless his successors shall concur in the petition, or renounce the succession, in which several cases Sequestration shall forthwith be awarded.

11.
Sequestration
of Estates of
a deceased
debtor.

And be it Enacted, That any One Creditor whose debt amounts to not less than *Fifty Pounds*, or any *Two* Creditors whose debts together amount to not less than *Seventy Pounds*, or any *Three* or more Creditors whose debts together amount to *One hundred Pounds* or upwards, (provided the debts are not contingent,) may petition for sequestration of the estates of any person or company within the descriptions aforesaid, provided that the petition be presented within *Four Months* after the date of the debtor being rendered Notour Bankrupt, and such Creditors respectively may concur in a petition by a Debtor for sequestration.

12.
Creditors
entitled to
petition for
Sequestration.

And be it Enacted, That to entitle a Creditor to petition or to concur in a petition for Sequestration, or to vote, or to draw dividends, he shall make oath to the effect hereinafter provided; and if he be within Scotland, he shall make such oath before a Judge Ordinary or Justice of the Peace; and if in England or Ireland, or His Majesty's other dominions, before a Commissioner of Bankruptcy or Master in Chancery; or a Justice of the Peace or Magistrate; and if he be in a foreign country, before a Magistrate of that country, certified by a British Minister or Consul, or by a Notary Public, to be a Magistrate authorized to administer oaths: And if he be furth of Great Britain and Ireland, or be incapable to make oath, his agent, factor, guardian or manager may make an oath of credulity to the effect hereinafter specified, (or as near thereto as circumstances will permit); and the same shall be sufficient.

13.
Creditors to
make Oaths
to verity of
Debt.

14.
Terms of
Oath.

And be it Enacted, That the Creditor shall swear that the debt which he claims is owing to him by the Debtor, and he shall specify every person, besides the Debtor, whom he holds liable for the debt or any part thereof, and every security which he holds for the same over the estate of the debtor, or the estate of any other person, of whatever nature such security may be; and where he holds no other person liable for the debt, or any part thereof, and no security for the same, he shall make oath to that effect: And where he holds such obligant or security, he shall, in order to be entitled to vote or draw a dividend, qualify his claim as hereinafter mentioned: And if he has any written evidence of his debt, he shall specify and produce the same; and if it be not in his possession, or within his power,^f he shall state to the best of his belief where or in whose hands it is; and if the debt stand on open account, he shall engross the account in his oath, or produce therewith a copy subscribed by him, containing the whole items; or if there has been a settled balance, he shall specify the same, and also a subscribed copy of the amount of the items from and after such settled balance, and produce any written evidence of such balance in his possession or within his power, or state where or in whose hands it is, and if not in his possession, he shall produce a copy of the whole account signed by him: And if he intends to petition for Sequestration of the estates of the Debtor, he shall further swear that he believes the Debtor to be within one or other of the descriptions of persons liable to Sequestration, and specify which description; and if he intends to petition for Sequestration of the estates of a deceased Debtor, he shall specify the place where he resided and carried on business in Scotland, and whether at the time of his death he was owner of heritable or moveable estates in Scotland.

15.
Mode of ap-
plying for Se-
questration.

And be it Enacted, That the application for Sequestration shall be by petition to the Lord Ordinary, signed by the petitioner or his counsel or agent, and with such petition the petitioning or concurring Creditor shall produce an oath to the effect above specified, and also the written evidence and documents, as hereinbefore provided.

16.
On Peti-
tion by the
Debtor, Se-
questration to
be awarded.

Order to elect
Interim Fac-
tor, Trustee
and Commis-
sioners.

And be it Enacted, That where such petition is presented by the Debtor, with concurrence as aforesaid, the Lord Ordinary shall forthwith pronounce a deliverance awarding Sequestration of the whole estates then belonging or which before the Debtor be discharged shall come to him, and he shall declare the said estates to belong to the Creditors for the purposes of this Act, and appoint a general meeting of the Creditors to be held at a specified hour on a certain day, being not more than *Two Weeks* from the date of the deliverance (or as much earlier as circumstances will permit),

permit), at a convenient place within the county where the
 Debtor carries on or last carried on his business, failing which,
 at a convenient place within the county of his place of residence
 or last residence, to elect an Interim Factor, if the Creditors
 5 think fit to appoint one, and failing their doing so, the Sheriff Clerk
 of the county shall act as interim factor; and the Lord Ordinary
 shall also by the same deliverance make an order upon the Creditors
 to meet at a specified hour on another day, being not less than *Four*
 10 *Weeks* and not more than *Six Weeks* from the date of the deliver-
 ance, at the place fixed for the election of Interim Factor, to elect
 a Trustee and Commissioners, and do the other acts hereinafter
 provided; and the Lord Ordinary shall also remit to the Sheriff of
 the said county to proceed in manner hereinafter mentioned; but
 15 notwithstanding the said remit, the Sequestration shall be held
 to be in the Court of Session until finally closed, and shall not
 fall asleep, although no step shall be taken therein for a *Year and*
Day: And the Lord Ordinary shall by the same deliverance,
 unless cause be shown to the contrary, grant a protection to the
 Debtor, to continue (unless recalled in manner hereinafter provided)
 20 until he shall apply for a discharge, and until such application be
 disposed of; and a copy, certified by the Bill Chamber Clerk of the
 interlocutor awarding Sequestration and granting protection, shall
 protect the Debtor from arrest or imprisonment in Great Britain
 and Ireland, and His Majesty's other dominions, for civil debt con-
 25 tracted previous to the date of Sequestration; but such protection
 shall not be of any effect against the execution of a warrant of
 arrest in meditatione fugæ.

Remit to
Sheriff.

Protection to
Debtor.

And be it Enacted, That if the petition for Sequestration be pre-
 sented without the consent of the Debtor, the Lord Ordinary shall
 30 grant a warrant to cite him to appear within a specified period if he
 be within Scotland, of not less than *Six Days* nor more than *Twenty-*
one Days from the date of citation, by delivering to him personally,
 or by leaving at his dwelling-house or place of business, a copy of the
 petition and warrant, and if the Debtor be furth of Scotland, to cite
 35 him to appear also within a specified period, being not less than
Thirty Days nor more than *Forty Days* from the said date, by leaving
 a copy at the dwelling-house or place of business last occupied by
 him, and also at the Office of Edictal Citations, to show cause
 why Sequestration should not be awarded: And the Lord Ordinary
 40 shall, if desired, grant diligence to recover evidence of the Notour
 Bankruptcy, and of the Debtor being within the description alleged:
 And if, upon the expiration of the time specified in the warrant, the
 Debtor do not appear by himself, counsel or agent, or if appearing he
 do not instantly pay or produce evidence of the payment of the debt in
 respect whereof he was made Notour Bankrupt, and of the debt due

17.
If Sequestra-
tion applied
for without
the Debtor's
consent,
Warrant to
cite, &c. to
be granted.

to the petitioning Creditor, and of the debt due to any other Creditor who shall appear and concur in the petition, or do not show cause why Sequestration should not be awarded, the Lord Ordinary, on production of evidence of the citation and of the Notour Bankruptcy, shall award Sequestration, appoint a meeting to be held for the election of an Interim Factor, Trustee and Commissioners, remit to the Sheriff, and grant a personal protection, all to the effect and in the manner above specified. 5

18.
Sequestration
of the Estates
of deceased
Debtor.

And be it Enacted, That where a petition is presented for Sequestration of the estates of a Debtor who is dead, the petitioning Creditor shall produce an oath, and written evidence, or account as above provided, and the Lord Ordinary shall grant warrant to cite the debtor's next of kin, heir, apparent heir, or other successor, (as the case may be,) personally or at his dwelling-place if known and within Scotland, or if not known, or if furth of Scotland, at the Office of Edictal Citations, and in both of these last cases also at the house where the Debtor had at the time of his death his residence, or at his place of business in Scotland, on induciæ of *Twenty-one* Days from the date of citation, to show cause why Sequestration should not be awarded, and they shall be cited accordingly; and if on the expiration of the said *Twenty-one* Days, and production of an execution of citation, they fail to appear, the Lord Ordinary shall order intimation of such warrant to be published in the Edinburgh Gazette, requiring the said next of kin, heir, apparent heir, or other successor (as the case may be), to show cause as aforesaid within a further space of *Twenty-one* Days from the date of the publication of the said intimation; and if they do not then appear, or if appearing, no cause to the contrary shall be shown by them or any party interested, the Lord Ordinary shall award Sequestration, and issue the other orders, as hereinabove provided in the case of any other Debtor, in so far as circumstances will permit; and he shall ordain any successor who has made up a title to, or is in possession of the estate of the Debtor, to transfer it, so far as liable for the debts of the deceased, to the Trustee to be appointed as hereinafter directed; and if desired, the Lord Ordinary shall grant diligence to recover evidence to show that the Debtor was subject to the laws of Scotland, and held heritable or moveable estates as hereinabove provided: And if Sequestration shall be awarded, such Sequestration shall proceed in the same way as in other cases, with the differences necessarily arising from the death of the Debtor: And the petitioning Creditor may at any time after the execution of the citation, and before Sequestration is awarded, apply to the Lord Ordinary to appoint a Judicial Factor to administer the estate in the mean time, and if no cause be shown to the contrary, the Lord Ordinary may appoint a Factor accordingly: And it 40

it shall not be competent for any Creditor, after the date of the first deliverance on the petition for Sequestration, to be confirmed Executor Creditor, or raise or insist in any adjudication or diligence against the estate of the Debtor.

5 And be it Enacted, That a petition for the Sequestration of the estates of any Company in Scotland may be presented either by the Company itself, (whether it be engaged in any of the said occupations or not,) provided that a mandate signed by at least two of the partners (or in case of death, by their successors) be
10 produced with the petition, and that one or more Creditors qualified as aforesaid concur: And where the Company does not so apply, the petition may be presented by one or more Creditors qualified as aforesaid, provided the Company be Notour Bankrupt, and is or has been engaged in any of the occupations hereinbefore set
15 forth, and has carried on business in Scotland, and either then has or has had a place of business in Scotland within *a Year* before the date of presenting the petition; and the Lord Ordinary shall, where the petition is presented by the Company, forthwith award Sequestration; and where it is presented without their consent, he shall grant warrant
20 to cite, and in either case he shall issue the other orders, all in the same way and to the same effect as in the case of individual Debtors; and it shall be a sufficient citation that a copy of the petition and warrant be left at the place where the business of the Company is or was last carried on, provided a partner, or a clerk, or a servant of
25 the Company be there, and failing thereof, at the dwelling-house of any of the acting partners, and if the house of such partner cannot be found, by leaving the copy at the Office of Edictal Citations; and Sequestration may be awarded either of the estates of the Company and partners jointly or separately, according as the same shall
30 be prayed for; and a copy of the deliverance certified as aforesaid shall protect each of the partners named therein, to the same effect as is hereinbefore provided for the protection of individual Debtors.

19.
Sequestration
of the Estates
of a Company.

And be it Enacted, That the Clerk of the Bill Chamber in the Court of Session shall be Clerk to Sequestrations under this Act, and he shall, so soon as a petition is presented for Sequestration, mark
35 thereon (according to the desire of the petitioner) the Division of the Court to which the petitioner wishes the Sequestration to be appropriated, and to that Division the Sequestration shall be appropriated accordingly; and he shall keep a book, intituled, "The
40 Register of Sequestrations," in the form of Schedule (D.) hereunto annexed, which book shall be patent to all concerned; and he shall forthwith therein enter the date of the first deliverance on every petition for Sequestration, and the name and designation of the Debtor, and of the petitioning or concurring Creditor; the place and county of the Debtor's residence or business; the date of award-

20.
Bill Chamber
Clerk to be
Clerk of Se-
questrations;
and Duties.

Register of
Sequestra-
tions.

ing Sequestration; the place and time appointed for the election of the Interim Factor and Trustee; the name and designation of the Interim Factor and of the Trustee; and the time fixed for lodging claims in order to obtain payment of the first dividend.

21.
Abbreviate to
be recorded in
Register of
Inhibitions.

And be it Enacted, That the party applying for Sequestration shall, before the expiration of the *Second* lawful day after the first deliverance, present an Abbreviate of the petition and deliverance, signed by him or his agent, in the form of Schedule (E.) hereunto annexed, to the Keeper of the General Register of Inhibitions at Edinburgh, who shall forthwith therein record the said Abbreviate; and the Abbreviate so recorded shall have the effect of an Inhibition, and of a citation in an adjudication of the estate of the Debtor, at the instance of the Creditors afterwards ranked on the estate; and the party so applying shall, within *Four* Days from the date of the interlocutor awarding Sequestration, insert a Notice, in the form of Schedule (F.) hereunto annexed, in the Edinburgh Gazette.

Notice of Se-
questration
to be pub-
lished.

22.
Interlocutor
awarding Se-
questration
not liable to
review, but
may be re-
called.

And be it Enacted, That the interlocutor awarding Sequestration shall not be subject to review; but any Debtor whose estate has been sequestrated without his consent, or the successor of any deceased Debtor whose estate has been sequestrated as aforesaid, or any Creditor (whether the Sequestration has been awarded with or without the consent of the Debtor or his successor) may within *Forty* Days after the date of the interlocutor awarding Sequestration, present a petition to the Lord Ordinary, setting forth the grounds for recall, and praying for recall; and where Sequestration has been awarded of the estate of a deceased Debtor, when his successor was edictally cited, it shall be competent to such successor or any person having a lawful interest, to apply by petition as aforesaid, at any time before the publication of the advertisement, for payment of the first dividend hereinafter mentioned: And the Lord Ordinary shall in these several cases order a copy of the petition and of his deliverance to be served on the petitioning Creditor, or (as the case may be) on the petitioning Debtor and the concurring Creditor, or on their respective known agents, and on the Interim Factor or Trustee, if appointed; and he shall require them to answer within a certain short time, and order a notice of the presenting of the petition to be published in the Edinburgh Gazette; and on the expiration of the said period he shall proceed to pronounce judgment; and if he shall recall the Sequestration, the recall shall be entered by the Clerk in the Register of Sequestrations, and by the Keeper of Inhibitions on the margin of the Record of Inhibitions.

23.
No Recall
competent
after certain
times, unless
Nine-tenths
of Creditors
apply.

And be it Enacted, That no petition for recall of the Sequestration shall be competent after the expiration of the said *Forty* Days, or after the said advertisement for payment of the first dividend respectively;

respectively: Provided, That *Nine-tenths* in number and value of the Creditors ranked on the estate as herein directed may apply at any time for recal by petition to the Lord Ordinary, who shall order notice of his deliverance to be published in the Edinburgh Gazette, requiring all concerned to appear within *Fourteen* Days from the date of publication in the Gazette, and show cause why the Sequestration should not be recalled; and on expiration of the said time he shall proceed to pronounce judgment.

And be it Enacted, That if a Creditor who has petitioned for Sequestration, or concurred in such petition, or who has petitioned for recal of a Sequestration, or appeared to oppose a petition for Sequestration or recal, or lodged an objection, shall withdraw, or become bankrupt, or die, any other Creditor may be sisted in his place, and follow out the proceedings.

24.
Creditors may
be sisted in
place of
others.

And be it Enacted, That in all questions under this Act the Sequestration shall be held to commence and take effect on the day when the first deliverance, of whatever nature it may be, shall be signed by the Lord Ordinary; and the said day shall be held to be the date of the Sequestration, although the Sequestration be not actually awarded till a later date.

25.
Date of Se-
questration.

And be it Enacted, That the presenting of, or concurring in a petition for Sequestration, or the lodging a claim in terms of this Act, shall interrupt prescription, and bar the effect of any statute of limitations in England or Ireland or His Majesty's dominions; and although the Sequestration shall be recalled, such interruption or bar shall not thereby be affected.

26.
Petitioning,
concurring or
claiming to
interrupt
Prescription,
and bar
Statute of
Limitations.

And be it Enacted, That on the said remit being made to the Sheriff, a copy of the petition for Sequestration, and of the deliverance awarding Sequestration, certified by the Clerk of the Bill Chamber, shall, with the productions, be transmitted by the petitioner to the Sheriff Clerk of the county, or ward, or place where the meeting for election of Interim Factor is directed to be held; and the Sheriff shall have as full power and jurisdiction as hitherto possessed by the Court of Session (subject always to review) to determine all questions in the Sequestration, under the limitations herein provided; and the Sheriff Clerk and Officers of Court shall have power to act in their respective offices under this Act; and the Sheriff Clerk shall keep a register of Sequestrations transmitted to him in terms of the said Schedule (D.); and extracts of the deliverances of the Sheriff, as well as all extracts of any deliverance under this Act, shall be evidence in all courts and places within Great Britain and Ireland and His Majesty's dominions, and shall be sufficient warrants for all diligence and execution by law competent.

27.
Certified
Copy of Peti-
tion, &c. to be
transmitted
to the Sheriff
Clerk.

Jurisdiction
of Sheriff
Clerk to keep
Register of
Sequestra-
tions.
Extracts to be
Evidence.

28.

Creditors not
to be liable
for Expenses
except in
certain cases.

And be it Enacted, That no person shall, by claiming as a Creditor in a Sequestration, or appearing at a meeting under this Act, be personally liable to any claim by the Interim Factor, Trustee, or agent or other person employed in the business of the estate, for money advanced or expense incurred, or remuneration in the affairs of the estate, or in any proceeding relative to the estate, reserving to the Interim Factor, Trustee, agent or other person employed, right to payment out of the estate, or from such person who may be otherwise liable for the same, and to such agent or other person employed by the Interim Factor or Trustee, right to payment from his employer: Provided always, That the Interim Factor or Trustee may intimate to the Creditors at any of the meetings herein appointed, or at any meeting called for the purpose by advertisement in the Edinburgh Gazette, that he will not carry on the Sequestration, or such proceeding, unless funds be furnished by the Creditors: And where any person has advanced money, or incurred expense, or become entitled to remuneration, or rendered himself liable for the same, in following out any proceeding relative to the estate, no Creditor shall be entitled to any benefit resulting from such proceeding, until such person be paid or relieved.

29.

Creditors
claiming to
vote, to pro-
duce Oaths
and Vouchers.

And be it Enacted, That every Creditor who claims to vote in the election of Interim Factor or Trustee or Commissioners, shall produce at the meeting for election an oath and documents as herein provided.

30.

Mandataries
for Creditors
may vote.

And be it Enacted, That the mandatary of any person entitled to vote as a Creditor may vote in the absence of such Creditor, provided he exhibit a written mandate; and the vote of such mandatary shall, within the limits of his mandate, be held as the vote of the Creditor himself.

31.

Persons ac-
quiring Debts
after Seques-
tration not to
vote.

And be it Enacted, That no person who shall acquire, after the date of the Sequestration, otherwise than by succession or marriage, a debt due by the Bankrupt, shall be entitled to vote in the election of Interim Factor or Trustee or Commissioners, but in all other respects such person may be reckoned as a Creditor.

32.

Creditors on
Debts future
or liable to
discount to
make De-
ductions and
specify Ba-
lance.

And be it Enacted, That if a Creditor claim for a debt which is not payable till after the date of, the Sequestration, he shall in his oath deduct the legal interest thereon from the date of the Sequestration to the term of payment, and specify the balance; and if he claim for a debt which, by the usage of trade, is liable to a discount of more than legal interest, he shall in his oath state the amount of such discount, and deduct it from the price, and specify the balance; provided that if the same be not payable at the date of the Sequestration, he shall also deduct the legal interest as aforesaid,

and

and specify the balance; and if a Creditor claim for a debt with bygone interest, he may in his oath accumulate the interest as at the date of the Sequestration, and he shall specify the amount, but he shall not be entitled to claim interest on such accumulated sum: And the Creditor in the said several cases shall be entitled to vote, and to draw dividends for the said balance, or accumulated sum respectively: Provided that, if there be any residue of the estate after discharging the debts ranked, he shall be entitled to draw out of such residue any interest lawfully due on such future debt, if the term of payment have arrived after the date of the Sequestration, or (as the case may be) any sum so deducted, if lawfully exigible, or the interest on the said accumulated sum, so far as due and not otherwise paid.

Creditors may
accumulate
Arrears of
Interest.

And be it Enacted, That if a Creditor hold a security for his debt over the estate of the Bankrupt, he shall in his oath put a value on such security, and deduct such value from his debt, and specify the balance: And if the estate be sold and the price realized, he shall in his oath deduct the free proceeds thereof from his debt, and specify the balance; and he shall be entitled to vote and draw dividends in respect of such balances and no more: Provided, that in questions as to the disposal or management of the estate over which his security exists, he shall be entitled to vote in respect of the whole amount of his debt.

33.
Valuation of
Securities.

And be it Enacted, That if a Creditor has an obligant bound with, but liable in relief to the Bankrupt, in whole or in part; or any security from such obligant, he shall, in his oath, put a value on the obligation of such obligant, and on such security, to the extent to which the Bankrupt is entitled to relief, and deduct such value from his debt, and specify the balance; and he shall be entitled to vote and draw dividends in respect of such balance and no more; and if required by the Trustee, he shall discuss such obligant at the expense of the estate: And if a Creditor has an obligant bound to him for the debt, but who is not liable to relieve the Bankrupt, or if he hold a security from such obligant, he shall be entitled to vote and draw dividends for the full amount of his debt undiminished by his claim on the obligant, or by such security, or by any payment received from such obligant or from such security subsequent to the date of the Sequestration; provided that the Creditor shall not in any case draw more than the full amount of his debt, with interest to the date of payment.

34.
Valuation of
Obligants
liable in
relief to the
Bankrupt.

Valuation of
Obligants
not so liable.

And be it Enacted, That it shall be competent to the Trustee, with consent of the Commissioners, within *Four Months* after an oath specifying the value of a security has been lodged, to require from the Creditor a conveyance or assignation to such security

35.
Right of
Trustee to
Assignation to
Securities.

Provision for
change on
values of
Securities.

on payment of the specified value, with *Twenty* per centum in addition to such value; and the Creditor shall be bound to grant such conveyance or assignation at the expense of the Trustee: Provided, that where a Creditor has put a value on such security, he may, on a change of circumstances, correct such valuation by a new oath, in which he shall specify such change, and deduct such new value from his debt, and state the balance, and he may vote and draw a dividend in respect of such balance, if so entitled under his original claim; but it shall be competent for the Trustee forthwith to require, and the Creditor shall be bound to grant a conveyance or assignation as above provided, on payment of the new value; and it shall not be competent, after a requisition in either case, for the Creditor to put an increased value on such security. 5 10

36.
Valuation of
claims on
Company, and
on a Partner's
Estate.

And be it Enacted, That a Creditor on the estate of a company shall not be bound to value and deduct from his claim on the company's estate the value which he may be entitled to draw from the estates of the partners; but if the estate on which the Creditor claims be that of a partner of a company, and the debt be a company debt, the Creditor shall in his oath put a value on his claim against the company, and deduct such value and all payments received before the date of the Sequestration from his debt, and specify the balance; and he shall be entitled to vote, and to draw dividends in respect of the said balance, and no more: And the Trustee, with consent of the Commissioners, shall have the option of taking an assignation to the Creditor's claim on the Company, on payment of the value so estimated, before the Creditor draw any dividend on the balance. 15 20 25

37.
Contingent
Creditors.

And be it Enacted, That where a Creditor claims in respect of a debt, the amount or payment of which depends upon a contingency which has not happened at the date of the claim, such Creditor shall not be entitled to vote, nor to draw a dividend in respect of such contingent debt; but such Creditor may apply to the Sheriff, if the Trustee has not been elected, or if elected, to the Trustee, to put a value on such debt, and the Sheriff or Trustee (as the case may be) shall put a value thereon; and on such value being fixed, such Creditor may vote in respect of such value, and be counted in number, if such value exceed *Twenty Pounds*, and draw dividends: Provided that if such contingency happen before the value be fixed, such Creditor may vote and draw dividends in respect of the amount of the debt, but the same shall not disturb any former dividends allotted to other Creditors: Provided always, That where such application is made to the Sheriff, notice thereof shall be given (if he be elected) to the Interim Factor, and if not elected, to the Bankrupt and petitioning or concurring Creditor; and any Creditor who has claimed on the estate may appeal and be heard thereon, and the judgment of the Sheriff or Trustee shall be subject to review. 30 35 40

And

And be it Enacted, That where a claim is made by any Creditor of the Bankrupt in respect of an annuity, he may, if the Trustee has not been elected, apply to the Sheriff, or if elected, to the Trustee, to put a value on such annuity; and the Sheriff or Trustee (as the case may be), shall put a value on the annuity, by having regard to the original price given for the said annuity, and deducting from such price the diminution in the value of the annuity caused by the lapse of time from the date of the annuity to the date of the Sequestration; and such Creditor shall be entitled to vote and draw dividends in respect of such value, and no more: Provided always, That where such application is made to the Sheriff, notice thereof shall be given (if elected) to the Interim Factor, and if not elected, to the Bankrupt and the petitioning or concurring Creditor; and any Creditor who has claimed on the estate may appear and be heard thereon; and the judgment of the Sheriff or Trustee shall be subject to review.

38.
Annuity creditors.

And be it Enacted, That where a Creditor has an obligant bound to him along with the Bankrupt for the whole or part of the debt, such obligant shall not be freed from his liability for such debt in respect of any vote or dividend drawn by the Creditor under this Act; but such obligant may require and obtain at his own expense from such Creditor an assignation to the debt on payment of the amount thereof, and in virtue thereof enter a claim on the said estate, and vote, and draw dividends, if otherwise lawfully entitled to do so: And where the value of an annuity has been fixed in manner hereinbefore provided, any obligant bound for payment thereof along with the Bankrupt shall be liable only for the value so fixed; and on making payment of such value to the Creditor, he shall be discharged of all liability in respect of his obligation, and, on obtaining an assignation as aforesaid, he may enter a claim for the value so paid to the effect aforesaid.

39.
Claiming or acting in the Sequestration not to discharge Co-obligants.

Provision as to Cautioner for Annuities.

And be it Enacted, That in no case shall oaths of verity or credulity supersede production of legal evidence where required in any judicial discussion by the Court of Session, the Lord Ordinary, the Sheriff, or the Trustee.

40.
Oath not to supersede legal Evidence.

And be it Enacted, That all questions at any meeting of Creditors shall be determined by the majority in value of those present and entitled to vote, unless in the cases herein otherwise provided for; and where, for the purpose of voting, the Creditors are required to be counted in number, no Creditor whose debt is under *Twenty Pounds* shall be reckoned in number, but his debt shall be computed in value.

41.
Rule as to Majorities.

And be it Enacted, That Creditors or their mandataries qualified as aforesaid shall assemble at the times and places fixed respectively for the election of Interim Factor, and for election of the Trustee, with power to adjourn on these or any other occasions for such

42.
Proceedings at Meetings for election of Interim Factor or Trustee.

reasonable time as may seem fit ; and if *Two* or more Creditors shall give notice to the Sheriff or Sheriff Substitute of the county, such Sheriff or Sheriff Substitute (or in case of necessary absence, a Sheriff Substitute authorized by the Sheriff to act under this Act) shall with the Sheriff Clerk or his Depute attend the meeting ; and the Sheriff or Sheriff Substitute shall preside thereat, and the Sheriff Clerk shall mark the oaths and productions, and enter in the minutes the names and designations of the creditors, or the mandataries of Creditors, and the amount for which they claim, and any other circumstances which the presiding Sheriff shall judge fit ; which minutes the Sheriff or his Substitute shall sign ; and the Clerk shall retain the oaths and written evidence till the election shall be determined, when he shall deliver the same to the Interim Factor or Trustee the case may be) ; and where no such requisition is made for the attendance of the Sheriff or Substitute, the Creditors shall elect a Preses and Clerk, and the Preses shall mark the oaths and productions and sign the minutes, and the Clerk shall write the minutes : And the Creditors or their mandataries, who have produced their oaths and documents and been entered in the minutes, shall elect a fit person to be Interim Factor, or to be Trustee (as the case may be), or two or more Trustees to act in succession in case of non-acceptance, death, removal or disqualification ; and in the case of the Sequestration of the estates of a company and of the partners, one Interim Factor and (as the case may be) one Trustee for all the estates, or separate Interim Factors or (as the case may be) separate Trustees on the estates of the company, and on the estates of all or each of the individual partners and trustees in succession as aforesaid : And it shall not be lawful to elect as Interim Factor or Trustee the Bankrupt, or any person conjunct and confident with the Bankrupt, or who holds an interest opposed to the general interest of the Creditors, or whose residence is not within the jurisdiction of the Court of Session, or to elect the Interim Factor to be Trustee.

43.
Procedure
where no
Objections
made, and
where they
are made.

And be it Enacted, That if at the election either of Interim Factor or Trustee (as the case may be), no objections shall be stated to the votes or candidates, the Sheriff or Sheriff Substitute present at the meeting shall declare the person elected to be Interim Factor or Trustee (as the case may be); and subscribe a deliverance to that effect; and if any objection be made to the votes or candidates, such objections may, if the Sheriff or ordinary Sheriff Substitute be present, be forthwith disposed of by him, or he may make avizandum, and he shall, if necessary, make a short note of the objections, and of the answers, on which he shall within *Four* Days after the meeting hear parties vivâ voce, and give his decision on the election with summary despatch, and declare the person to be Interim Factor, and he shall also declare the person (as the case may be) or persons trustee or trustees in succession, whom he shall find to have been duly elected : Provided, That where the officiating Sheriff is a Sheriff

Sheriff Substitute appointed to act in the absence of the Sheriff or of the ordinary Sheriff Substitute of the county, or is a Preses elected by the Creditors, such Substitute or Preses, whether there be any competition or not, shall forthwith report the proceedings to the Sheriff or ordinary Substitute, and the oaths and documents shall, if the Sheriff Clerk or his Depute be present, remain in his possession, or, if he be not present, shall be transmitted to the Sheriff Clerk by the Preses, to be retained by him till the Interim Factor or Trustee (as the case may be) shall be finally appointed, when he shall deliver the same to such Interim Factor or Trustee; but the said oaths and documents shall be subject to exhibition in the hands of the Sheriff Clerk to any party interested: And if there be no competition, the Sheriff or ordinary Substitute shall declare the person elected to be Interim Factor or Trustee (as the case may be); and if there be competition, the Sheriff or ordinary Substitute shall forthwith hear parties *vivâ voce*, and give his decision and declare in manner hereinbefore provided; and the judgment of the Sheriff or Substitute, declaring the person elected to be Interim Factor, shall not be subject to review in any court or in any manner whatever.

And be it Enacted, That the Creditors shall at the said meetings respectively fix a sum for which the Interim Factor shall find security, and for which the Trustee to be confirmed shall also find security, for their respective intrusions and performance of the duties and rules hereby enacted, and shall also decide on the sufficiency of the caution offered by the respective competitors; and the Interim Factor and the person declared to be Trustee shall respectively forthwith lodge with the Sheriff Clerk a Bond of Caution, signed by the Interim Factor and his Cautioner, and by the Trustee and his Cautioner (as the case may be) in the form of the Schedule (G.) hereunto annexed, which bond shall be furnished to him by the Sheriff Clerk; and on such Bond being lodged, the Sheriff shall confirm the election of the person chosen Interim Factor or Trustee (as the case may be); and the Sheriff Clerk shall issue an Act and Warrant in the form of Schedule (H.) hereunto annexed to the Interim Factor; and in the case of the election of Trustee, an Act and Warrant in the form of Schedule (I.) hereunto annexed to the Trustee; and the Interim Factor or Trustee (as the case may be) shall immediately transmit a copy of the said Act and Warrant to the Bill Chamber Clerk, who shall thereupon make an entry of the name and designation of the Interim Factor and of the Trustee (as the case may be) in the Register of Sequestrations; and the said Act and Warrant shall be an effectual title to the Interim Factor and Trustee respectively to perform the duties hereby imposed on them.

44.
Amount of
Caution to be
fixed, and
Bond to be
lodged.

Act and War-
rant to be
issued.

And be it Enacted, That the Interim Factor shall, immediately on receiving

45.
Duties of
Interim
Factor.

Bankrupt to
make up state
of affairs

receiving the Act and Warrant of his appointment, take such steps as may be necessary for the preservation of the estate until the meeting of the Creditors for the election of Trustee; and he shall take possession of and recover the Bankrupt's estate, and make an inventory thereof, and of his title-deeds, books, bills, vouchers, and all other documents whatsoever, so far as then known, and he shall transmit a copy of such inventory to the Bill Chamber Clerk: And the Bankrupt shall with all despatch make up and deliver to the Interim Factor a state of his affairs, specifying his whole estate, wherever situated, the estates in expectancy or to which he may have an eventual right, the names of his Creditors and Debtors, and the debts due by and to him, and a rental of his heritable subjects; which state and rental shall be subscribed by the Bankrupt and preserved by the Interim Factor, and abstracts thereof shall be ingrossed in a Sederunt Book to be kept by him; and the Bankrupt shall give all information and assistance necessary to enable the Interim Factor to execute his duty; and if the Bankrupt fail to do so, or to grant any deed which may be requisite for the recovery of the estate, the Interim Factor may apply to the Sheriff to compel him to give such information and assistance, and to grant such deed, under the penalty of incarceration and of forfeiture of the benefits of this Act; and, unless cause be shown to the contrary, the Sheriff shall issue a warrant accordingly.

46.
Interim Fac-
tor to lodge
Money in
Bank, &c.

And be it Enacted, That the Interim Factor shall lodge in Bank all monies received by him as hereinafter directed, and he shall pay to the petitioning or concurring Creditor, out of the first funds which shall come into his hands, the expense incurred by him in obtaining the Sequestration, rendering the Debtor Notour Bankrupt, and doing the other acts hereby required prior to the election of the Interim Factor, as the same shall be taxed; and if the funds received by the Interim Factor shall not be sufficient, such expenses shall be paid by the Trustee, when he shall be appointed, out of the first of the funds which shall come into his hands.

47.
At meeting to
elect Trus-
tees, Interim
Factor to ex-
hibit States,
and be remun-
erated.

And be it Enacted, That at the time and place appointed for the said meeting to elect a Trustee, the Interim Factor shall exhibit the Sederunt Book containing the said inventory, state and rental, and also an account of his intromissions and disbursements, and if required by any Creditor, the books of the Bankrupt, with the title-deeds, bills, vouchers and other documents, conform to inventory; and if the meeting be satisfied that the Interim Factor has duly lodged the money and performed his duties, they shall fix his remuneration, and he shall receive payment thereof, and of all advances made by him out of the funds in his hands: And if the Interim Factor be dissatisfied with the sums allowed, the same shall be determined by the Sheriff, whose judgment shall not be reviewable by any court

court whatever; but the Interim Factor shall not be entitled, in respect of non-payment thereof or any other ground, to retain any part of the estate, and he shall be bound forthwith to deliver the estate, books, state, rental, and all other documents to the Trustee, who shall, if sufficient funds have not been realized by the Interim Factor, pay the said remuneration and advances out of the first money which shall come into his hands.

And be it Enacted, That any Creditor or Competitor giving notice in writing to the Sheriff Clerk, within *Two Days* after the date of the Sheriff's Interlocutor declaring the election of the Trustee, of his intention to appeal to the Inner House of the Court of Session against such Interlocutor, shall be entitled so to appeal, provided that a Bond of Caution for the Competitor, signed by a Cautioner approved of at the said meeting, shall along with such notice be lodged with the Sheriff Clerk, and a written reclaiming note against such Interlocutor be lodged with and marked by the Clerk of the Bill Chamber within *Fourteen Days* from the date of such Interlocutor; and on a copy of such reclaiming note, certified by the Bill Chamber Clerk, being delivered to the Sheriff Clerk, he shall forthwith transmit to the Bill Chamber Clerk the minutes of election, together with such of the proceedings as may be required; and the Sheriff shall report the grounds of his decision; and the Inner House shall thereupon hear parties *vivâ voce*, and decide which of the Competitors has been duly elected, or, if they see cause, order a new election, and appoint a time and place for that purpose; and if the appealing Competitor shall be preferred, the Inner House shall remit to the Sheriff to confirm him; and no part of the expense of such competition, either before the Sheriff or any other tribunal, shall be paid out of the estate, but the expenses may be ordered to be paid by the unsuccessful party to the successful party.

48.
Appeal
against Elec-
tion of Trus-
tee.

Expenses
how to be
paid.

And be it Enacted, That no appeal shall have the effect to stop the proceedings in the Sequestration, and the Interim Factor shall continue to act until a Trustee shall be finally confirmed; and if on a new election the appealing Competitor or other person shall be confirmed Trustee, an Act and Warrant shall be issued in his favour, and proceedings shall take place as aforesaid; and if the appealing Competitor or other person be elected, an appeal may be made in manner before provided; and if such appealing Competitor or other person shall be elected and confirmed, the Interim Factor shall deliver to such Trustee the estate of the Bankrupt, with the books, title deeds and other documents in his possession, and account to him for his intromissions; and the Creditors may at any meeting (which, if required, the Trustee shall call) make an allowance to the Interim Factor for his trouble during the period of his administration,

49.
Appeal not to
stop Seques-
tration.

Interim Fac-
tor to con-
tinue to act.

Remunera-
tion to In-
terim Factor.

administration, subject to review in manner before provided; and the Trustee shall pay the sum so allowed, and the expenses incurred by the Interim Factor, out of the first of the funds.

50.
Election of
Commis-
sioners.

And be it Enacted, That at the meeting for election of Trustee, the Creditors present, or their Mandataries, shall, after the election of the Trustee, elect *Three* Commissioners, who shall be either Creditors or Mandataries of Creditors (if there be so many who have claimed), and the same proceedings shall take place in regard to their election as is provided in regard to the election of Trustee, (except that they shall not be bound to find security), and the Sheriff shall decide who are the persons duly elected, and declare their election by a deliverance in the Sederunt Book, which shall entitle them to act without further authority; and a majority of them shall be a quorum: Provided that no person shall be eligible as a Commissioner who is disqualified to be a Trustee; and any Mandatary who has been elected a Commissioner shall lose that office upon written intimation being sent by his constituent to the Trustee that he has recalled the mandate, and the Trustee shall immediately record the intimation in the Sederunt Book; and the Trustee shall, in all cases where a Commissioner has declined or ceased to act, call a meeting of Creditors for the purpose of electing a new Commissioner, and such Commissioner shall be elected in manner hereinbefore provided.

Disqualifica-
tion.

51.
Duties of
Commis-
sioners.

And be it Enacted, That the Commissioners shall superintend the proceedings of the Trustee, give their advice and assistance relative to the management of the estate, examine the acts and intromissions of the Trustee, audit his accounts, decide as to paying or postponing payment of a dividend, fix his remuneration (subject to the control of general meetings), and may assemble at any time to ascertain the situation of the Bankrupt estate; and any *One* of them may make such report as he may think proper to a general meeting of the Creditors.

52.
Offer of Com-
position may
be made at
this Meeting.

Recal of
personal Pro-
tection.

And be it Enacted, That at the said meeting for election of Trustees, or at the meeting held after the Bankrupt's examination, or at any other meeting called for the purpose, an offer of composition may be made to the Creditors in manner hereinafter provided; and the majority in number and value of the Creditors present may resolve that the personal protection of the Bankrupt ought to be recalled, and in such case the Trustee shall apply to the Sheriff, who shall withdraw the protection: Provided that the protection may be afterwards renewed by the Sheriff, on application made to him for the purpose by the Bankrupt or Trustee, with the consent of a majority of the Creditors in number and value given at any meeting

meeting called for the purpose, and may also when so renewed be recalled; and the protection, when granted, shall be a warrant for liberation of the Bankrupt from gaol if he be imprisoned.

And be it Enacted, That at the said meeting for election of Trustee, or at the meeting held after the election of the Bankrupt, or at any meeting called for the purpose, *Four-fifths* in value of the Creditors present may authorize payment from time to time to the Bankrupt, or to the partners of a company (if the Sequestration be of a company estate), of such sum out of the estate as they shall think proper for subsistence until the period assigned for the second dividend, but such allowance shall not exceed *Three Guineas* per week to the Bankrupt, or to each individual partner of a company from the date of the Sequestration to the period aforesaid; and no allowance shall be given if the Bankrupt shall not have complied with the provisions of this Act.

53.
Allowance to Bankrupt.

And be it Enacted, That the Trustee, within *Twenty-one Days* after his election is confirmed, shall present an abbreviate, signed by him or his agent, in the form of Schedule (K.) hereunto annexed to the Keeper of the Register of Abbreviates of Adjudications, who shall forthwith record the same, and the like proceeding shall take place within *Twenty-one Days* after the election of each new Trustee shall be confirmed.

54.
Entry of Confirmation in Register of Adjudications.

And be it Enacted, That the Trustee shall recover the estate belonging to the Bankrupt wherever situated, and convert the same into money, with the advice of the Commissioners, if no special advice be given by the Creditors: And the Act and Warrant issued by the Sheriff Clerk to the Trustee shall be evidence of his right and title to the said estates for the purposes of this Act; and a copy of the said Act and Warrant, and of the Act and Warrant in favour of the Interim Factor, certified by the Bill Chamber Clerk, and authenticated by the seal of the Court of Session, shall be received in all courts and places within England, Ireland and His Majesty's other dominions, as evidence of the title, and shall entitle them respectively, or the Trustee or Interim Factor, to maintain all actions in the same way as the Bankrupt might have done if his estates had not been sequestrated.

55.
Trustee's Duties.

Act and Warrant evidence of Title.

And be it Enacted, That the Interim Factor and the Trustee respectively shall lodge all money which they may receive in such Bank as *Four-fifths* of the Creditors in number and value at any general meeting shall appoint, and failing such appointment in one or other of the following Banks; videlicet, the Bank of Scotland, the Royal Bank of Scotland, the Bank of the British Linen Company, the Commercial Bank of Scotland, or the National Bank

56.
Money to be lodged in Bank.

Bank of Scotland (provided that the Bank be not one in which the Interim Factor or Trustee, or any Commissioner, shall be an acting partner, manager, or cashier); and the same shall be lodged in the name of the Interim Factor or Trustee in his official character, at the highest rate of interest which can be procured for the same; and such Bank shall, once yearly at least, accumulate the interest with the principal sum, so that both shall thereafter bear interest as principal; and if the Bank fail to do so, such Bank shall be liable to account as if such money had been so accumulated. 5 10

57.
Twenty per
cent. on
Money not
lodged.

And be it Enacted, That if the Interim Factor or Trustee shall keep in his hands more than *Fifty Pounds* of cash belonging to the estate for more than *Ten Days*, he shall pay a sum to the Creditors at the rate of *Twenty* per centum per annum on the excess of the said sum of *Fifty Pounds*, for such time as it shall be in his hand beyond the said *Ten Days*; and he shall be dismissed from his office upon petition to the Lord Ordinary by any Creditor, unless the Lord Ordinary shall be satisfied that the money has been kept from innocent causes. 15

58.
Sheriff to
appoint day
to examine
Bankrupt;
and Meeting
of Creditors
to be pub-
lished.

And be it Enacted, That the Trustee, within *Eight Days* after the date of confirmation, shall apply to the Sheriff to name a day for the public examination of the Bankrupt; and the Sheriff shall issue his warrant for the Bankrupt to attend at a day and hour (being not sooner than *Fourteen Days* nor later than *Twenty-one Days* from the date of his warrant) within the Sheriff Court-house or other convenient place; and on the Sheriff granting such warrant, the Trustee shall publish an advertisement, in terms of Schedule (L.) hereunto annexed, in the Edinburgh Gazette, intimating to the Creditors his name and designation, his election as Trustee, the day, hour and place fixed for the examination of the Bankrupt, and also a specified day (being not sooner than *Fourteen Days* nor later than *Twenty-one Days* after the day appointed for the examination of the Bankrupt), and the hour and place for holding a meeting of the Creditors. 20 25 30

59.
Warrant to
apprehend
Bankrupt for
examination.

And be it Enacted, That it shall be competent for the Sheriff to whom the sequestration has been remitted to grant warrant to apprehend the Bankrupt, and bring him before the Sheriff for examination; and if the Bankrupt be incarcerated within any part of Scotland, the Sheriff may grant warrant to Magistrates and gaolers, on receiving a duplicate of such warrant, and an acknowledgment for the person of the Bankrupt, to deliver him to the officer presenting the same, and they shall do so accordingly; and the Sheriff may also grant warrant to bring the Bankrupt from the sanctuary, which warrant shall protect against arrest for debt while under examination, 35 40

examination, and on the way to the place of examination, and in returning to the sanctuary; and such warrants shall be sufficient authority to messengers at arms, and to the officers of the said Sheriff, and to gaolers, within any part of Scotland, either within or
 5 beyond the territory of the said Sheriff, to apprehend, transmit, detain and incarcerate the Bankrupt until his examination is concluded, and also for his retransmission after examination to the gaol from which he was delivered up, and reincarceration therein; and if the Bankrupt cannot conveniently be brought from gaol or the
 10 sanctuary, or cannot be examined by the Sheriff there, or is by a lawful cause prevented from attending at the time and place appointed, or is abroad, the Sheriff may grant commission to take the examination; and where the Bankrupt cannot be examined, the Trustee may proceed with such other examinations as
 15 are hereinafter directed; and the Sheriff may, if he shall see cause, adjourn the examination of the Bankrupt to a subsequent day to be then fixed, and may, on the application of the Trustee, order him to be examined as often as he shall see fit; and the examination may, at the discretion of the Sheriff, be upon oath.

20 And be it Enacted, That if the Bankrupt be in any part of Great Britain and Ireland other than Scotland, the Lord Ordinary may, on petition by the Trustee, grant warrant, under the seal of the Court of Session, to all Judges, Justices and Officers of the law, if the Bankrupt be at large, to apprehend and transmit him to the
 25 place of his examination, and to enforce the same, which they are hereby required to do; and if the Bankrupt be in prison or custody, the Lord Ordinary shall grant warrant, as aforesaid, to Magistrates and gaolers, upon receiving a duplicate of such act and warrant, and an acknowledgment for the person of the Bankrupt, to deliver
 30 him to the messenger or officer presenting such warrant; which they shall do accordingly, and such warrant shall be sufficient authority for the apprehension, transmission, detention and incarceration of the Bankrupt (where necessary for his safe custody) for examination, and for his retransmission after examination to and
 35 reincarceration in the prison or custody from which he was delivered up.

60.
Warrant
where the
Bankrupt is
in England
or Ireland.

And be it Enacted, That the Sheriff may at any time, on the application of the Trustee, order an examination of the Bankrupt's wife and family, clerks, servants, factors, law agents and others
 40 who can give information relative to the Bankrupt's estate, either by declaration or on oath, as to the Sheriff shall seem fit; and the Sheriff shall, on the application of the Trustee, issue his warrant requiring such persons to appear; and if any of them refuse or neglect to appear when duly summoned, the Sheriff shall issue another warrant to apprehend the person so failing to appear:

61.
Other persons may be examined, and, if necessary, apprehended.

Provided that where any person required to be examined is not the Bankrupt, nor one of his family, nor his clerk or servant, no warrant for apprehension of such person shall be issued till the expiration of *Eight Days* from the service of the first warrant, unless the Trustee shall make oath that he believes that such person 5 intends to leave the country to avoid the examination, and he shall specify on oath a reasonable cause of belief, in which case it shall be competent forthwith to issue such warrant; which several warrants shall be sufficient to authorize messengers at arms, or the officers of the said Sheriff, to execute the same in all parts of 10 Scotland, either within or without the territory of the Sheriff: And if any such person cannot conveniently attend for examination, the Sheriff may grant commission to take his examination.

62.
Must answer
all lawful
questions, &c.

And be it Enacted, That the Bankrupt and the said persons shall answer all lawful questions relating to the affairs of the Bankrupt; 15 and the Sheriff may order such persons to produce for inspection any books of account, papers, deeds, writings, or other documents in their custody relative to the Bankrupt's affairs, and cause copies thereof to be delivered to the Trustee: Provided that persons other than the Bankrupt, summoned to attend for examination, shall be 20 entitled to such allowances as witnesses are in other cases entitled to, and the amount of which, if disputed, shall be fixed by the Sheriff.

63.
Effect of re-
fusal to
answer, &c.

And be it Enacted, That if the Bankrupt, or any of the said persons, shall refuse to be sworn, or to answer, to the satisfaction of the Sheriff, any lawful question put to him by the Sheriff 25 or Trustee, or any Creditor with the sanction of the Sheriff, or without lawful cause shall refuse to sign his examination; or to produce books, deeds or other documents in his custody or power relating to the estate, the Sheriff may grant warrant to com- 30 mit him to prison, there to remain until he comply with the order; which warrant shall specify the question and answer, book, deed, document, or the refusal to swear or to sign the examination; and such warrant shall not be subject to the review of the Court of Session, but the Bankrupt or person incarcerated may apply by 35 written petition (without argument) to the Lord Ordinary for a recall of the warrant; and the Lord Ordinary shall order the petition to be served on the Trustee or the said Creditor, and shall thereafter hear parties *vivâ voce*, and pronounce judgment.

64.
Bankrupt
may correct
his State, and
must take
Oath.

And be it Enacted, That the Bankrupt, before the close of his examination, may make such additions to or alterations upon the 40 state of his affairs as may have occurred to him to be necessary to give a full view of his affairs, which state, with the additions and alterations, shall be subscribed by the Sheriff, the Bankrupt, and the Trustee; and the Bankrupt shall then take the following oath, which

which shall be engrossed in the Sederunt Book, and subscribed as aforesaid, as relative to the said state; and where the Bankrupt is a partner with others, and examined respecting the affairs of the partnership, the words of the oath shall so far be varied as to make
5 it applicable to the case :

“ I DO, in the presence of Almighty God, and as I shall answer to Oath.

God at the great Day of Judgment, solemnly swear, That the
10 state of my affairs subscribed by me as relative hereto contains a full and true account, to the best of my knowledge and belief, of all the debts of whatever nature due to me, and of all my estate and effects, heritable and moveable, real and personal, wherever situated, the necessary wearing-apparel of myself, my wife and family, only excepted, as well as of all
15 claims which I am entitled to make against any person or persons whatsoever, and of all estate in expectancy, or means of whatever kind to which I have an eventual right by contract of marriage, trust-deed, settlement, deed of entail, or otherwise; and that the said state likewise contains a full and true account of all debts due by me, or demands upon
20 me; and that I have delivered up the whole books, documents, accounts, title-deeds, and papers of every kind belonging to me which in any way relate to my affairs, and which were in my possession or under my power; and that I have made a full disclosure of every particular relating to my affairs: And further I promise and swear, That I will
25 forthwith reveal all and every other circumstance or particular relative to my affairs which may hereafter come to my knowledge, and which may tend to increase or diminish the estate in which my Creditors may be interested, directly or
30 indirectly. So help me GOD.”

And be it Enacted, That if any latent partner of a company shall not, by intimation to the Interim Factor or Trustee, acknowledge that he is a partner, on or before the day appointed for the examination of the Bankrupt partners, he shall not be entitled to
35 the benefits or privileges of this Act, unless in an application for the same he satisfy the Lord Ordinary that the omission proceeded from innocent mistake, and unless he shall then follow out all necessary steps for remedying the loss and inconvenience thence arising.

65.
Latent Partners must disclose themselves.

40 And be it Enacted, That within *Fourteen* Days after the examination of the Bankrupt, the Trustee shall prepare a Report, setting forth the state of the Bankrupt's affairs, and an estimate of what it may produce, which Report he shall exhibit at the meeting of the Creditors to be held after the examination of the Bankrupt, and

66.
Meeting after Bankrupt's examination.

give all explanations relative thereto; and the Creditors then assembled may receive any offer of composition as hereinafter provided, and may, either at this or any other meeting called for the purpose, give directions for the recovery, management and disposal of the estate, and whether the Trustee shall dispose of the heritable estate by public sale, or bring it to judicial sale before the Court of Session, or before the Sheriff, if competent. 5

67.

Meetings may
be called at
any time on
due notice.

And be it Enacted, That the Trustee or any Commissioner may at any time call a meeting of the Creditors, and the Trustee shall call such meeting when required by *One-fourth* in value of the Creditors ranked on the estate; and wherever it is in this Act directed that a meeting of Creditors shall or may be called or held, a notice of the day, hour, place and purpose of the meeting shall be advertised in the *Edinburgh Gazette* *Fourteen Days* at least before the day of the meeting, and such meeting may be adjourned to the following day: And it shall not in any case be necessary to send any notification, as is by this Act directed to be sent, by post to any Creditor whose debt shall be under *Twenty Pounds*, unless the Creditor shall have given directions in writing that such notification shall be sent; and no notification shall be sent to any Creditor who has directed that none shall be sent. 10 15 20

To what
Creditors
Notices to be
given through
Post Office.

68.

Trustee to
keep Seder-
unt Book,
and send
Copy of
Accounts to
Clerk.

And be it Enacted, That the Trustee shall keep a Sederunt Book, in which he shall record all minutes of meetings of Creditors and of Commissioners, states of accounts, reports, and all the proceedings necessary to give a correct view of the management of the estate: Provided always, That where any document is of a confidential nature, (such as the opinion of counsel in regard to any matter affecting the interests of the Creditors or the estate,) the Trustee shall not be bound to insert it in the Sederunt Book, or to exhibit to any other person than the Commissioners, unless he be ordered by competent authority to do so; and the Trustee shall also keep regular accounts of the affairs of the estate, and he shall transmit to the Bill Chamber Clerk, before each of the periods herein assigned for payment of a dividend, a copy, certified by himself, of such accounts; and such copies shall be preserved in the office of the said Clerk. 25 30 35

69.

Interim Fac-
tor, Trustee
and Commis-
sioners,
amenable to
the Court of
Session and
Sheriff.

And be it Enacted, That the Interim Factor, Trustee and Commissioners shall be amenable to the Lord Ordinary and to the Sheriff to whom the Sequestration shall have been remitted, although resident beyond his territory, at the instance of any party interested, to account for their intromissions and management under the Sequestration, by petition served on them. 40

And

70.
Removal of
Trustee.

And be it Enacted, That a majority in number and value of the Creditors present at any meeting to be called by an advertisement published in the Edinburgh Gazette at least *Fourteen* Days before such meeting, specifying the purpose of the meeting, may remove or accept the resignation of the Trustee; and *One-fourth* of the Creditors in value may at any time apply by petition to the Lord Ordinary for removal of the Trustee; and the Lord Ordinary shall order the said petition to be served on the Trustee, and intimated in the Edinburgh Gazette: And if the Lord Ordinary shall be satisfied that sufficient reason has been shown, he shall remove the Trustee, and appoint a meeting of the Creditors to be held for devolving the estate on the Trustee next in succession, or electing a new Trustee: And if the Trustee shall die, resign or be removed, or remain at any one time for *Three* Months furth of Scotland, any Commissioner or any Creditor ranked on the estate may apply to the Sheriff for an order to hold a meeting for devolving the estate on the next Trustee in succession, or electing a new Trustee; and the Sheriff shall grant warrant to hold such meeting at a certain time and place, which shall be advertised in the Edinburgh Gazette by the Commissioner or Creditor so applying; and at the time and place so appointed, the Creditors at such meeting may devolve the estate on the next in succession, or elect a new Trustee; and in all cases of a new election, the procedure shall take place in the same way as is hereinbefore provided for the case of the first election.

71.
Right to the
whole Estate
vested in
Trustee.

And be it Enacted, That the right to the estate and effects of the Bankrupt, wherever situated, so far as attachable for debt, shall, by virtue of the act and warrant of confirmation in favour of the Trustee, be transferred to and vested in him for the purposes of this Act, as at the date of the Sequestration, with every right, title, and interest which was then in the Bankrupt, (subject always to such preferable securities as existed at the date of the Sequestration, and are not null or reducible); and the whole heritable estates belonging to the Bankrupt in Scotland shall, by virtue of the act and warrant of confirmation, belong to the Trustee absolutely and irredeemably, as at the date of the Sequestration, to the same effect as if a decree of adjudication in implement, as well as for payment and security of debt, subject to no legal reversion, had been pronounced in his favour, and recorded at the date of the Sequestration: And his right shall not be challengeable on the ground of any prior inhibition (saving the effect which such inhibition may be entitled to in the ranking of the Creditors): Provided always, That such transfer and vesting of the heritable estate shall have no effect upon the rights of the superior, nor upon any question of succession between the heir and executor of any Creditor claiming on the sequestrated estate, nor upon the rights of the Creditors of the ancestor, (except that the act and warrant of confirmation shall

Superior's
Rights and
Limitations
of Bankrupt's
Estate not to
be affected

operate in their favour as complete diligence); and if the right to any part of the Bankrupt's heritable estate be entailed or otherwise limited, the right vested in the Trustee shall be effectual only to the extent of the interest in the estate which the Bankrupt might legally convey, or which the Creditors might validly attach: And the right vested in the Trustee shall be a complete transfer in his favour of the moveable estate by the act of warrant of confirmation for behoof of all the Creditors, as at the date of the Sequestration, without the necessity of intimation, and as if special intimation had been made. 5

72.
Sequestration
equivalent to
an Adjudica-
tion in Com-
petition.

And be it Enacted, That where the Sequestration is dated within 10
Year and Day of any effectual adjudication, the Trustee shall be entitled to appear and claim as if he had obtained decree of adjudication for the whole debts of the Bankrupt, principal and interest, accumulated at the date of the Sequestration; and the estate so adjudged shall be disposed of under the Sequestration according to 15
the provisions of this Act.

73.
Estates in
England,
Ireland, and
other British
dominions.

And be it Enacted, That all lands, tenements and hereditaments in England, Ireland, or in any of His Majesty's dominions, to which the Bankrupt is entitled, and all interest to which he is entitled in any such lands, tenements or hereditaments, and of which he might, 20
according to the laws of England, Ireland, or other His Majesty's dominions, have disposed, and all such lands, tenements and hereditaments which he shall purchase, or which shall descend, be devised, revert to, or come to the Bankrupt before he shall have obtained his discharge, and all deeds, papers and writings respecting 25
the same, shall, by virtue of the act and warrant of confirmation, vest in and belong to the Trustee for the purposes of this Act, as at the date of the Sequestration: Provided that where, according to the laws of England, Ireland, or other His Majesty's dominions, any deed or conveyance would require registration, enrolment or record- 30
ing, the act and warrant of confirmation shall be so registered, enrolled or recorded according to the laws of England, Ireland, or other His Majesty's dominions; and if any purchase is made by any person for valuable consideration, and without notice of the Sequestration, prior to the registration, enrolment, or recording of the 35
said act and warrant of confirmation, such purchase shall not be invalidated by the existence of such act and warrant, or the subsequent registration, enrolment or recording thereof.

74.
Acquisitions
of Bankrupt
after the Se-
questration to
belong to the
Creditors.

And be it Enacted, That if any estate, wherever situated, shall, after the date of the Sequestration, and before the Bankrupt has 40
obtained his discharge, be acquired by him, or descend, devolve upon or revert to him, he shall forthwith notify the same to the Trustee; and the Trustee shall present a petition setting forth the circumstances to the Lord Ordinary, who shall appoint intimation
to

to be made in the Edinburgh Gazette, and require all concerned to appear within a certain time for their interest; and after the expiration thereof, and no cause shown to the contrary, the Lord Ordinary shall declare all right and interest in such estate which belongs to the Bankrupt to be vested in the Trustee, as at the date of the said petition; and the proceeds thereof when sold shall be divided in terms of this Act: Provided that the rights of the Creditors of the person from whom such estate shall descend to the Bankrupt shall be reserved entire.

10 And be it Enacted, That any person claiming right to an estate included in the Sequestration may present a Petition to the Lord Ordinary, praying to have such estate struck out of the Sequestration; and the Lord Ordinary shall order the Trustee to answer within a certain time, and on expiration of such time he shall proceed to dispose of the application.

75.
Subjects improperly included in Sequestration may be struck out.

And be it Enacted, That the Bankrupt shall grant all deeds necessary for the recovery and effectually vesting his estates in the Trustee for the purposes of this Act; and if the Bankrupt's title to any estate has not been completed, the Trustee may complete titles for behoof of the Creditors in his own person, or in that of the Bankrupt; and superiors shall, if required, enter the Trustee, or the purchaser from him, in terms of an Act of the twentieth year of the reign of his Majesty King GEORGE the Second, intituled, "An Act for abolishing Ward Holdings:" Provided that the Trustee may, without making up a feudal title in his person, grant conveyances of the heritable estate belonging to the Bankrupt, with such procuratories, precepts or other warrants as the Bankrupt might competently have granted, without being affected by any inhibition against the Bankrupt, reserving the effect of such inhibition in the ranking.

76.
Trustee may complete feudal Titles, or grant such Rights as Bankrupt could do.

20 Geo. 2.

And be it Enacted, That where the Bankrupt is a party to or in the right of any charter, lease or other contract attachable for debt, and thereby under express or implied stipulations for feu-duty, rent or other prestation, the said transference to and vesting in the Trustee shall not be deemed an undertaking by him or the Creditors to implement such stipulations; but the majority of the Creditors at the meeting for election of Trustee may resolve to undertake such stipulations; and if they do so resolve, they shall, within *Fourteen Days* from the date of the meeting, tender, under form of protest, to the person to whom such feu-duty, rent or other prestation is due, an obligation by *One* or more solvent parties for payment thereof; but no resolution as to undertaking the said obligation shall bind any Creditor beyond the

77.
Provisions where Bankrupt is party to Charters, Leases, &c.

amount of his interest in the sequestrated estate, unless he shall expressly consent to or homologate the said resolution : And if such obligation be not tendered within *Fourteen* Days after such meeting, the said person may (whether a resolution to the effect foresaid has been made or not) apply to the Lord Ordinary or to the Sheriff to ordain the Creditors to grant such an obligation within *Twenty-one* Days after the date of service on the Trustee, and if they shall fail to do so, the Lord Ordinary or Sheriff (as the case may be) shall declare the right of the Bankrupt under such charter, lease or other contract, to be not vested in the Trustee, and not available to the sequestrated estate, reserving to the said person all claims of damages against the estate in consequence of any failure by the Bankrupt in the performance of stipulations under the charter, lease or other contract: Provided always, That if the Creditors fail to grant the said obligation, any Creditor may attach the Bankrupt's right under such charter, lease or other contract, as if the Sequestration had not been awarded, subject always to any liability which he may thereby incur to implement the stipulation thereof.

78.
Trustee may
get Property
adjudged to
him, although
Heir of Bank-
rupt has made
up Titles.

And be it Enacted, That where Sequestration is awarded against the estate of a person after his death, and his successor has made up a title to his heritable estate, the Trustee may apply by petition to the Lord Ordinary, praying that such estate shall be adjudged to him ; and the Lord Ordinary shall order the petition to be served upon such successor, and require him to answer the same within *Fourteen* Days ; and if on expiration of that period no cause is shown to the contrary, the Lord Ordinary shall declare such estate to be vested in the Trustee as at the date of the Sequestration, to the same effect as is hereinbefore provided ; and the Trustee shall within *Eight* Days thereafter cause such decree to be recorded in the Register of Abbreviates of Adjudications, as before provided.

To be re-
corded in Re-
gister of Ad-
judications.

79.
Circum-
stances in
which Heri-
table Credi-
tors not to
interfere with
Sale by
Trustee.

And be it Enacted, That if a majority of the Creditors at the said meeting held after the examination of the Bankrupt, or at any other meeting called for the purpose, resolve that the Trustee shall dispose of the heritable estate by public sale, or bring it to judicial sale, before a Creditor holding a power of sale shall have commenced proceedings for sale, or if such proceedings have been unduly delayed, such Creditor shall not be entitled to interfere with the sale by the Trustee.

80.
Public Sale of
Heritable
Subjects ;

And be it Enacted, That any public sale of the heritable estate shall be made by auction in the manner which shall be fixed by the Trustee, with consent of the Commissioners ; and if the estate be sold, the Trustee, with consent of the Commissioners, shall grant a disposition to the purchaser, which shall have the effect of conveying whatever right is in the Trustee, under burden of the securities preferable to the

the right of the Trustee, but shall free and discharge the estate of all securities not preferable to the right of the Trustee, and of all diligence not completed at the date of the Sequestration.

Effect on
Securities.

And be it Enacted, That if a Creditor holding an heritable security, with a power to sell, concur with the Trustee in bringing the estate to sale, the Trustee shall sell the same in his own name; and the articles of roup and conveyance to the purchaser shall be executed by the Trustee, with consent of the said Creditor and the Commissioners, and the price shall be paid by the purchaser to the parties legally entitled thereto, and, in so far as not paid at the time of the delivery of the conveyance, it shall be consigned in the bank in which the money of the Bankrupt estate is deposited; and the payment or consignment of the price shall free and discharge the subject sold, and the purchaser, from all securities preferable to that of the concurring Creditor, in so far as satisfied by such payment or consignment, and also, whether satisfied or not, from the debt of the concurring Creditor, and of all securities postponed thereto.

81.
Heritable
Creditor may
allow Trustee
to sell.

And be it Enacted, That a Creditor who holds an heritable security preferable to the right of the Trustee, with a power to sell, may sell in terms of his Bond, notwithstanding the Sequestration; but the Trustee, by petition to the Lord Ordinary or to the Sheriff, may compel the Creditor and the purchaser to account for any reversion of the price.

82.
Heritable
Creditor, with
power to sell,
may sell.

And be it Enacted, That if a majority of Creditors assembled as aforesaid shall resolve on a judicial sale, the Trustee shall institute such an action, which may be carried on as to a part or the whole of the estate, and without any other proof of Bankruptcy than the Sequestration; and every heritable Creditor in possession shall be cited upon induciæ of *Fifteen Days*, whether within Scotland or not, and it shall not be necessary to call any other parties; and on the estate being sold, the price, after satisfying any preferable securities, shall be paid by the purchaser to the Trustee; and the purchaser shall, upon payment of the price, receive a discharge from the Trustee, which, with the decree of sale, shall free and discharge the estate in the same way as a decree of sale in an action of ranking and sale.

83.
Judicial Sale.

Disposal of
Price.

Effect of a
Decree of
Sale.

And be it Enacted, That no part of the expenses of the Sequestration, nor of the sale of the heritable estate, nor of the Trustee's Commission, shall be payable out of such part of the price as may be necessary to discharge the securities on the heritable estate preferable to the Trustee; and no heritable Creditor, or Creditor preferable to the Trustee on the heritable estate, shall be liable for or

84.
Expenses of
Sale as
against
Heritable
Creditors.

affected by the expense of such sale, unless he shall have consented to the sale.

85.

Sequestration
not to affect
Heritable
Creditor's
right to
pound
Ground, &c.
for One Year's
Arrears of
Interest.

And be it Enacted, That no Creditor who holds a security over the heritable estate preferable to the right of the Trustee shall be prevented by the Sequestration from taking possession or executing a poinding of the ground, or an action of maills and duties; but no such poinding shall attach any moveables belonging to the Bankrupt, unless the summons or letters shall have been executed prior to the date of the Sequestration; nor shall such poinding be available for the payment of the principal debt, or for more than the current term's interest, and *One Year's* arrear of the interest of the said debt. 5 10

86.

Landlord's
Hypothec
saved.

And be it Enacted, That nothing herein contained shall affect the landlord's right of hypothec.

87.

Acts and
Payments by
Bankrupt
after Sequestration
null,
except in cer-
tain cases.

And be it Enacted, That all acts done or deeds granted by the Bankrupt after the date of the Sequestration (unless with the consent of the Interim Factor or Trustee) shall be null and void; and the Trustee shall be entitled to recover any money paid by the Bankrupt to any Creditors after such date; but if a bonâ fide purchaser is in possession of moveable effects from the Bankrupt for a price paid, or which he is ready to pay, he shall not be obliged to restore the effects; and if a Debtor, before he knew of the Sequestration, shall have paid his debt bonâ fide to the Bankrupt, he shall not be obliged to pay it a second time to the Trustee; and if the possessor of any bill or promissory note, with recourse on other parties, or of a security over any part of the estate of the Bankrupt, shall have bonâ fide received payment of his debt from him, and given up such bill, promissory note or security, such person shall not be liable to repay the amount so received, unless the Trustee shall replace him in the situation in which he stood, or reimburse him for any loss or damage. 15 20 25 30

88.

Diligence
Sixty Days
before Sequestration,
or after it,
ineffectual.

And be it Enacted, That diligence executed against the estate or effects of the Bankrupt on or after the *Sixtieth* Day prior to the Sequestration, or after the date of the Sequestration, shall not be effectual; and the estate or effects to which right shall have been obtained under such diligence, or the proceeds thereof if sold, shall be made forthcoming to the Trustee; provided that the first arrester or poinder before the date of the Sequestration, who shall be thus deprived of the benefit of his diligence, shall have preference for the expense bonâ fide incurred by him in such diligence on the estate or effects so recovered. 35

Expenses of
Diligence.

And

And be it Enacted, That if a Creditor shall, after the date of the Sequestration, obtain preference on or payment out of any estate or effects of the Bankrupt wherever situated, the same shall not be effectual to the creditors; and he shall be bound to convey to the

5 Trustee such preference, and repay to the Trustee the money which he has received, retaining any expense incurred bonâ fide.

89.
Preferences
after the Se-
questration
to be assigned
to Trustee.

And be it Enacted, That where the Sequestration of the estates of a deceased Debtor is dated within *Seven Months* after his death, all preferences and securities for any prior debt acquired

10 by legal diligence within *Sixty Days* before his death, or subsequent thereto, and all preferences or securities acquired for a prior debt, by any act or deed of the Debtor which have not been lawfully completed at least *Sixty Days* before his death, and any confirmation as Executor Creditor after the Debtor's death, shall in these

15 several cases be of no effect in competition with the Trustee.

90.
Preferences
in case of a
deceased
Debtor.

And be it Enacted, That the Lord Ordinary or Sheriff, on cause shown, may order that, for a period not exceeding *Three Months* from the date of the order, all letters addressed to the Bankrupt shall be delivered by the Postmaster General, or the officers acting

20 under him, to the Interim Factor or Trustee, to be opened in presence of the Sheriff, after written notice to the Bankrupt to attend, if within Scotland; and in case the letters shall relate in whole or in part to the estate, they shall be placed in such custody as the Sheriff may direct; and the Lord Ordinary or Sheriff may, on

25 cause shown, renew such order for a like period as often as shall be necessary.

91.
Interim Fac-
tor or Trustee
may be au-
thorized to
receive and
open Post
Letters.

And be it Enacted, That the Trustee may, with consent of the Commissioners, transact or refer to arbitration any questions which may arise in the course of the Sequestration regarding the estate or

30 any part thereof, and the transaction or decree-arbitral shall be binding on the Creditors and the Bankrupt.

92.
Trustees and
Commis-
sioners may
submit and
transact.

And be it Enacted, That where any estate is sold by virtue of this Act, it shall be lawful for any Creditor to purchase the same; but neither the Interim Factor, Trustee nor any Commissioner shall

35 be entitled to purchase.

93.
Creditors may
purchase.

And be it Enacted, That the whole estate when reduced into money shall, after paying all necessary charges and a commission to the Trustee, be divided among those who were Creditors of the Bankrupt at the date of the Sequestration, ranked according to their several rights and interests.

94.
Realized
Estate to be
a Fund of
Division.

95.
Times at
which Divi-
dends to be
paid.

And be it Enacted, That where there are sufficient funds realized, the first dividend shall be payable on the first lawful day after the expiration of *Eight Months* from the date of Sequestration; and the second dividend shall be payable on the first lawful day after the expiration of *Twelve Months* from the said date; and a dividend shall be payable on the first lawful day after the expiration of *Four Months* from the date of the payment of the immediately preceding dividend, until the whole funds of the Bankrupt be distributed, subject always to the provisions hereinafter made. 5

96.
Time within
which Credi-
tors to lodge
their Claims,
in order to
receive pay-
ment of
Dividends.

And be it Enacted, That to entitle any Creditor to payment of the first dividend, he shall lodge his oath and grounds of debt at least *One Month* before the time fixed for payment of the first dividend: And to entitle any Creditor to payment of the second dividend, he shall lodge his oath and grounds of debt at least *One Month* before the time fixed for payment of the second dividend: And to entitle a Creditor to payment of any of the subsequent dividends, he shall lodge his oath and grounds of debt at least *One Month* before the day fixed for payment of the dividend which he means to claim: Provided, that if a Creditor has not lodged his oath and grounds of debt in time to share in the first dividend, but has done so in time to share in the second dividend, he shall be entitled, on occasion of payment of the second dividend, to receive out of the first of the fund (if there be sufficient for that purpose) a sum equal to the dividend he would have drawn, if he had claimed in time for the first dividend; and the same rule shall apply as to all subsequent dividends: And where the dividends are not payable at the said times, Creditors who have lodged their oaths and grounds of debt shall be entitled to payment of dividends as hereinafter provided; and the Trustee shall, on production of the oaths and grounds of debt, mark the same and make an entry in the Sederunt Book of the date when the same were lodged, and, if required, he shall return to the Creditor the grounds of debt. 10 15 20 25 30

97.
First Divi-
dend.
Trustee to
make up and
exhibit to
Commission-
ers State of
Funds.

Commission-
ers to meet,
and resolve as
to payment of
Dividend, &c.

And be it Enacted, That on the expiration of *Six Months* from the date of the Sequestration, the Trustee shall make up a state of the whole estate of the Bankrupt, of the funds recovered by him, and of the funds outstanding (specifying the cause why they have not been recovered), and of his intromissions, and generally of his management, which state he shall forthwith exhibit to the Commissioners; and within *Fourteen Days* after the expiration of the said *Six Months*, the Commissioners shall meet and examine the said state, and ascertain whether the Trustee has lodged the monies recovered by him in Bank or not, and if he has failed to do so, they shall debit him with a sum at the rate of *Twenty Pounds* on every *Hundred Pounds* not lodged, and so after that rate on any larger 35 40

or

or smaller sum, being not less than *Fifty Pounds*, and they shall audit his accounts and settle the amount of his commission, and authorize him to take credit for it in his accounts with the estate; and they shall certify, by a writing under their hands engrossed in the Sederunt Book, the balance due to or by the Trustee on his account with the estate as at the expiration of the said *Six Months*; and they shall declare whether any and what part of the net produce of the estate shall be divided among the Creditors.

And be it Enacted, That the Trustee shall, before the lapse of the said *Fourteen Days*, examine the several oaths and grounds of debt, and in writing reject or admit them, or require further evidence in support thereof: And in case he shall reject any claim, he shall in his deliverance state the grounds of such rejection; and he shall complete the list of the Creditors entitled to draw a dividend, specifying the amount of their debts, with interest thereon to the date of the Sequestration, and distinguishing whether they are ordinary Creditors, or preferable or contingent; and he shall likewise make up a separate list of any Creditors whose claims he has rejected in whole or in part, and he shall forthwith give notice in the *Edinburgh Gazette* of the time and place of the payment (which time shall not be shorter than *Twenty-one Days* nor longer than *One Month* from the date of the advertisement), and also notify the same by letters put into the Post Office on or before the first lawful day after the said *Fourteen Days*, addressed to each of the Creditors; and where he has rejected any claim, he shall notify the same to the claimant by letter as aforesaid, containing a copy of his deliverance, and he shall also specify the amount of dividend to which the rejected claimant would be entitled if not rejected, or as near to the amount thereof as circumstances will permit: Provided that any Creditor dissatisfied with the decision of the Trustee may appeal by a short written note to the Lord Ordinary or to the Sheriff; but if no appeal be made before the expiration of *Thirty Days* from the date of the said advertisement, the decision of the Trustee shall be final and conclusive, so far as regards that dividend, without prejudice to any new claim being afterwards made in reference to future dividends, but which shall not disturb prior dividends.

98.
Trustee within Fourteen Days to make up List of Creditors entitled or not entitled to payment of Dividend, and to publish and send Notices.

Creditors may appeal within a limited period.

And be it Enacted, That the Trustee shall, at least *Eight Days* before the expiration of the said *Eight Months*, make up a scheme of division of the fund directed by the Commissioners to be divided, and apportion the same among those Creditors whose claims have been sustained by him or by the Lord Ordinary or Sheriff, and also among those whose appeals have not been determined, and which scheme shall be patent to all concerned.

99.
Trustee to make up Scheme of Division.

100.

Dividends to be paid, and those disputed or claimed by contingent Creditors to be lodged in Bank.

And be it Enacted, That on the said first lawful day after expiration of *Eight Months* from the date of Sequestration, and at the place appointed, the Trustee shall pay to the Creditors the dividends allotted to them respectively in terms of the said scheme; and he shall lodge in the Bank appointed by the Creditors, or, failing such appointment, in one of the said Banks in a separate account, in name of himself and the Commissioners, the dividends apportioned to those claims under appeal, but not determined, and the dividends effeiring to contingent Creditors, or other claimants not then entitled to uplift the same.

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101.

Second Dividend.

Trustee to make up State, &c. and Commissioners to resolve as in case of first Dividend.

And be it Enacted, That on the expiration of *Ten Months* from the date of Sequestration, the Trustee shall again make up a state as hereinbefore provided, which he shall within *Fourteen Days* after the expiration of the said *Ten Months* exhibit to the Commissioners, who shall meet and adjust the state and perform the other acts and duties incumbent on them in manner before specified, and direct a second dividend to be paid, if there shall be funds to pay the same; and if they shall direct a dividend to be paid, the Trustee shall notify in the Gazette and by letters, as in the case of the first dividend; and he shall also make up lists of the Creditors who are entitled and who are not entitled to payment of the dividend, and frame a scheme of division, and any Creditor may appeal, all in manner hereinbefore provided for the first dividend.

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102.

Dividend to be paid

And be it Enacted, That on the said first lawful day after the expiration of *Twelve Months* from the date of Sequestration, the Trustee shall make payment of the second dividend to those Creditors whose claims have been admitted by him or the Lord Ordinary or the Sheriff, and shall lodge the dividends disputed or not then payable, all in manner hereinbefore provided for the first dividend.

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103.

Subsequent Dividends. Same proceedings as in prior Dividends.

And be it Enacted, That the like procedure shall be followed out at similar intervals of time thereafter, in order that a dividend may be made on the first lawful day after the expiration of every *Four Months* from the day of payment of the immediately preceding dividend, until the whole funds of the Bankrupt shall be divided.

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104.

Proceedings when Commissioners postpone the Dividend.

And be it Enacted, That if it shall appear to the Commissioners that a dividend ought to be postponed, they shall authorize the Trustee to give a notice to that effect in the next Edinburgh Gazette; provided that the state of the funds shall be made up, and the accounts of the Trustee audited as before directed; and circulars containing a copy or abstract of the said state shall be sent by post to the Creditors, unless the Commissioners shall otherwise direct.

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105.

Winding up of Estate, and close of Sequestration.

And be it Enacted, That if, on the lapse of *Twelve Months* from the date of Sequestration, it shall appear to the Trustee and Commissioners

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missioners expedient to sell the heritable or moveable estates not disposed of, and any interest which the Creditors have in the outstanding debts and consigned dividends, they shall fix a day for holding a meeting of the Creditors to take the same into consideration; and the Trustee shall, *Fourteen* Days before the day appointed, send by post to the Creditors a notice of the time and place of the meeting, with a valuation of the estate and effects, and a list of the outstanding debts and of the consigned dividends; and if *Three-fourths* of the Creditors in value assembled at the meeting shall decide in favour of a sale in whole or in lots, the Trustee shall sell the same by auction, after notice thereof published at least Once in the Edinburgh Gazette *One Month* previous to the sale, and in such other newspapers as the Creditors shall appoint.

Proceedings
for this purpose.

And be it Enacted, That at the said meeting for election of Trustee, the Bankrupt, or, in case of his decease, his successors, and, in a case of a Company, one or more of the Partners thereof, may offer a composition to the Creditors on the whole debts, with security for payment of the same; and if the majority of the Creditors in number and *Four-fifths* in value present at such meeting shall resolve that the offer and security shall be entertained for consideration, the Trustee or Interim Factor (as the case may be) shall forthwith advertise in the Edinburgh Gazette a notice that an offer of composition has been so made and entertained, and that it will be decided upon at the meeting to be held after the examination of the Bankrupt, and he shall also transmit, by post, letters containing a notice of such resolution, and of the day on which the said meeting is to be held, to the Creditors claiming on the estate, or specified in the Bankrupt's state of affairs; and if, at the said meeting held after the examination of the Bankrupt, a majority in number and *Four-fifths* in value of the Creditors there assembled shall accept the said offer and security, a bond of caution for payment of the composition executed by the Bankrupt (or his successors, as the case may be), and the proposed Cautioner, shall be forthwith lodged in the hands of the Trustee; and the Trustee shall thereupon subscribe and transmit a report of the resolution of the meeting, with the said bond, either to the Bill Chamber Clerk or to the Sheriff Clerk, in order that the approval of the Lord Ordinary or of the Sheriff (whichever may be selected by the Trustee) may be obtained thereto; and if the Lord Ordinary or the Sheriff shall find that the offer, with the security, has been duly made, he shall pronounce a deliverance approving thereof; provided that he shall hear any objection by opposing Creditors, and give his judgment thereon; and if he shall reject the vote of any Creditor, he shall specify the grounds of rejection.

106.
Discharge of
Bankrupt on
Composition.

Proceedings
for this purpose
at the
first general
Meeting.

107.
Proceedings
for Discharge
on Composi-
tion at Meet-
ing after
Bankrupt's
examination.

And be it Enacted, That in like manner at the meeting held after the examination of the Bankrupt, or at any subsequent meeting called for the purpose by the Trustee, with the consent of the Commissioners, the Bankrupt, or, in case of his decease, his successors, and, in the case of a Company, One or more of the Part- 5
ners thereof, may offer to the Creditors a composition on the whole debts, with security for payment of the same; and if such offer and the security shall be entertained by a majority in number and *Four-fifths* in value of the Creditors present, they shall direct the Trustee to call another meeting, to be held on a specified day, being not less 10
than *Twenty-one Days* thereafter; and the Trustee shall, *Fourteen Days* at least before such other meeting, advertise the same in the *Edinburgh Gazette*, and send by post notices addressed to all the Creditors claiming on the estate, or mentioned in the Bankrupt's state of affairs, in which notices he shall specify the time, place, and pur- 15
pose of the meeting, the offer and the security proposed, an abstract of the state and valuation made up relative to the estate, so as to enable the Creditors to judge of the expediency of the said offer; and if, at the meeting so called, a majority in number and *Four-fifths* in value of the Creditors present shall accept the said offer 20
and security, a bond of caution shall be lodged, and a report made, and deliverances pronounced, all in manner hereinbefore provided in regard to an offer made at the meeting for election of Trustee.

108.
Bankrupt, on
making De-
claration or
Oath, to
obtain Dis-
charge.

And be it Enacted, That on such deliverance being pronounced in either of the cases above specified, the Bankrupt shall make a 25
declaration, or, if required by the Trustee or any Creditor, an oath before the Lord Ordinary or the Sheriff (as the case may be), that he has made a full and fair surrender of his estate, and has not granted or promised any preference, nor made or promised any payment, nor entered into any secret or collusive agree- 30
ment or transaction, to obtain the concurrence of any Creditor to the said offer; and in case the Bankrupt shall be at the time beyond the jurisdiction of the Lord Ordinary or Sheriff, commission may be granted to any fit person to take such declaration or oath; and the Lord Ordinary or the Sheriff (as the case may be), on being 35
satisfied thereof, shall pronounce a deliverance discharging the Bankrupt of all debts and obligations contracted by him, or for which he was liable, at the date of the Sequestration, and shall declare him to be reinvested in his estate, (reserving always the claims of the Creditors for the said composition against him and 40
the Cautioner); and the bond of caution shall be recorded in the books of the Court of Session or Sheriff Court; and an extract of the deliverance, when pronounced by the Sheriff, subscribed by the Sheriff Clerk, shall be forthwith transmitted to the Bill Chamber Clerk, who shall present the same, without enrolment, to the Lord Ordinary;

Ordinary; and the Lord Ordinary shall confirm the same by a deliverance, which, or an extract thereof, shall operate as a complete discharge and acquittance to the Bankrupt in terms thereof, and shall receive effect within Great Britain and Ireland and His Majesty's other dominions.

And be it Enacted, That before the Lord Ordinary or the Sheriff shall pronounce the said deliverance, the Commissioners shall audit the accounts of the Trustee, and ascertain the balance due to or by him, and fix the remuneration for his trouble, subject to the review of the Lord Ordinary or the Sheriff, if complained of by the Trustee, the Bankrupt, or any of the Creditors; and the expense attending the Sequestration and such remuneration shall be paid or provided for, to the satisfaction of the Trustee and Commissioners, before the said deliverance is pronounced: Provided that the Trustee and his Cautioner shall be liable, on summary petition to the Lord Ordinary or Sheriff by the Bankrupt or his Cautioner, to account for his intrusions and other acts as Trustee.

109.
Trustee's
Accounts to
be audited,
and provision
made for his
Expenses and
Commission.

And be it Enacted, That notwithstanding such offer of composition and proceedings consequent thereon, the Sequestration shall continue, and the Trustee shall proceed in the execution of his duty as if no such offer had been made, until the said deliverance by the Lord Ordinary be pronounced, when the Sequestration shall cease and be at an end.

110.
Sequestration
to go on, not-
withstanding
offer of Com-
position.

And be it Enacted, That neither the Bankrupt nor the Cautioner for the composition shall be entitled to object to any debt which the Bankrupt has given up in the state of his affairs as due by him, or admitted without question to be reckoned in the acceptance of the said offer of composition; nor to object to any preference, security or lien held by any Creditor, unless in the offer of composition such preference, security or lien shall be stated as objected to, and notice in writing given to the Creditor holder thereof: Provided that no person who has not entered his claim as a Creditor before the date of the said deliverance on the offer of composition shall be entitled to make any demand against the Cautioner after the space of *Two Years* from the date of such deliverance, reserving to such Creditor his claim for the composition against the Bankrupt and his estate.

111.
Bankrupt and
Cautioner not
to be entitled
to object to
Claims, &c.

Claims against
Cautioner
limited in
certain cases
to *Two Years*.

And be it Enacted, That after an offer of composition has been made and rejected, or has become ineffectual, no other offer of composition shall be entertained, unless a majority in number and value of all the Creditors ranked on the estate shall assent in writing to such offer; which offer shall state the amount of composition and the terms of payment, and be subscribed by the Cautioner proposed,

112.
If offer of
Composition
rejected, no
other to be
entertained,
unless agreed
to by a
Majority of
Creditors
ranked.

in which case a meeting shall be called by the Trustee for finally disposing of the same; and if, at the meeting so called, a majority in number and *Four-fifths* in value of the Creditors present shall accept the said offer and security, a bond of caution shall be lodged, and a report made, and deliverances pronounced, all in manner hereinbefore provided. 5.

113.
Discharge
without Com-
position.

Proceedings
for this pur-
pose.

And be it Enacted, That the Bankrupt may, at any time after the meeting held after his examination, petition the Lord Ordinary or the Sheriff to be finally discharged of all debts contracted by him before the date of the Sequestration, provided that every Creditor who has lodged his oath and grounds of debt as aforesaid shall concur in the petition; and the Bankrupt may also present such petition on the expiration of the period assigned for payment of the first dividend, provided a majority in number and *Four-fifths* in value of the Creditors ranked on his estate concur in the petition: And the Lord Ordinary or the Sheriff (as the case may be) shall in either case order the petition to be intimated in the Edinburgh Gazette; and if, at the distance of not less than *Twenty-one Days* from the publication of such intimation, and on evidence being produced of concurrence as aforesaid, there be no appearance to oppose the same, the Lord Ordinary or the Sheriff (as the case may be) shall pronounce a deliverance finding the Bankrupt entitled to a discharge; but if appearance be made by any of the Creditors, or by the Trustee, the Lord Ordinary or the Sheriff shall judge of any objections against granting the discharge, and either find the Bankrupt entitled to the discharge, or refuse the same, or annex such conditions thereto as the justice of the case may require. 10 15 20 25

114.
Bankrupt to
make a De-
claration or
Oath before
obtaining
Discharge.

And be it Enacted, That if the Bankrupt shall be found entitled to his discharge, he shall make a declaration, or, if required by the Trustee or any Creditor, an oath before the Lord Ordinary or Sheriff, that he has made a full and fair surrender of his estate, and has not granted or promised any preference, nor made or promised any payment, nor entered into any secret or collusive agreement or transaction, to obtain the concurrence of any Creditor to his discharge; and if the Bankrupt shall be at the time beyond the jurisdiction of the Court of Session or Sheriff, commission may be granted to any fit person to take such declaration or oath: And the Lord Ordinary or the Sheriff (as the case may be), on being satisfied thereof, shall pronounce a deliverance discharging the Bankrupt of all debts and obligations contracted by him, or for which he was liable, at the date of the Sequestration; and an extract thereof, when pronounced by the Sheriff, and signed by the Sheriff Clerk, shall forthwith be transmitted to the Clerk of the Bill Chamber, who shall present the same, without enrolment, to the Lord Ordinary, 30 35 40

nary, and the Lord Ordinary shall confirm the same by a deliverance, which, or an extract thereof, shall operate as a complete discharge and acquittance to the Bankrupt in terms thereof, and shall receive effect within Great Britain and Ireland and all His Majesty's
5 other dominions.

115.

Preferences,
Payments and
collusive
Agreements
for Discharge
on Composition or otherwise, null.

And be it Enacted, That all preferences and payments granted, made or promised, and all secret or collusive agreements and transactions, for concurring in, facilitating or obtaining the Bankrupt's discharge, either on or without an offer of composition, and
10 whether the offer be accepted or not, or the discharge granted or not, shall be null and void; and if during the Sequestration any Creditor shall have obtained any such preference or payment, or promise thereof, or entered into such secret or collusive agreement and transaction, the Trustee shall be entitled to retain his dividend,
15 and he or any Creditor ranked on the estate may present a petition to the Sheriff or to the Lord Ordinary, praying that such Creditor shall be found to have forfeited his debt, and be ordained to pay to the Trustee *Double* the amount of the preference or sum paid, or other consideration obtained; and if no cause be shown to
20 the contrary, decree shall be pronounced accordingly; and the sums which in such case may be recovered shall, under deduction of the expenses of recovering the same, be distributed by the Trustee among the other Creditors under the Sequestration; and if the Sequestration shall have been closed, it shall be competent to any
25 Creditor who shall not have received full payment of his debt to raise a multiplepinding in name of the person who has obtained such preference, payment or other consideration as aforesaid; and on the value of the preference or amount of the sum paid or consideration obtained being ascertained, such value or amount, together
30 with the amount of the debt of the colluding Creditor, shall be ordered to be consigned by him as in a process of multiplepinding, and the same being ascertained shall be divided among the Creditors who were ranked or were entitled to be ranked in the Sequestration, and who shall lodge claims in such multiplepinding, according to their respective rights and interests: Provided that the said multiple-
35 pinding shall be executed in terms of law against the colluding Creditor, and notice thereof at the same time be inserted in the Edinburgh Gazette; and in the event that there shall be any surplus after paying the full debts of the Creditors, and defraying the expenses
40 of the Sequestration or other proceeding, the same shall be paid into the account of unclaimed dividends as hereinafter provided.

116.

Bankrupt to
forfeit privi-
leges, if par-
ticipant in
giving such
Preferences,
&c.

And be it Enacted, That if the Bankrupt shall have been personally concerned in or cognizant of the granting or promising any preference or payment, or other consideration, or any secret or collusive agreement or transaction as aforesaid, he shall forfeit all right to a discharge, and all benefits under this Act; and such dis-
135. F charge,

charge, if granted, either on or without an offer of composition, shall be annulled; and the Trustee or any one or more of the Creditors may apply by petition to the Lord Ordinary to have such discharge annulled accordingly.

117.

If Bankrupt
do not make
a fair Surrender,
&c. to be
punished.

And be it Enacted, That if it shall appear to a majority of the Creditors in number and value assembled at any meeting after the examination of the Bankrupt that he has not made a full and fair surrender of his estate, or that he has disposed of or concealed any part of his funds, to the prejudice of his Creditors, or that his Bankruptcy has been fraudulent, they may direct a meeting to be called specially for taking the subject into consideration on *Fourteen Days'* notice; and the said meeting, if they see cause, may authorize the Trustee to proceed against him in terms of law at the expense of the estate.

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118.

Judicial proceedings.

Appeals, &c.
against resolutions
of Creditors and
deliverances
of Trustee,
to the Lord
Ordinary or
Sheriff.

And be it Enacted, That it shall be competent to appeal against the resolutions of the Creditors at meetings, and the deliverance of the Trustee, either to the Lord Ordinary or the Sheriff, provided a note of appeal shall be lodged with the Bill Chamber Clerk within *Fourteen Days* after the date of the meeting, or (as the case may be) in the hands of the Sheriff Clerk within the like period; and where any such appeal is made, or any petition or complaint is presented against the Trustee or Commissioners, or against any of the Creditors, the Lord Ordinary or the Sheriff (as the case may be) shall appoint a copy thereof, and of his deliverance thereon, to be served on the Respondent or his mandatary or known agent, and appoint the Respondent to appear at a specified diet within such period as may appear to be reasonable; and the Lord Ordinary or the Sheriff (as the case may be) shall at such diet hear parties *vivâ voce*, and the Lord Ordinary shall proceed to dispose of the case summarily, with or without a record, as he shall consider best; and the Sheriff may also, without further procedure, decide, provided he shall specify the facts, and assign the grounds of his judgment; but if he shall see cause, he may order minutes to be lodged by the parties, containing their averments in fact and pleas in law, without argument, and may hold the same as a closed record, and proceed as in a summary cause; and in pronouncing his judgment, he shall assign his reasons: And it shall be competent to the Lord Ordinary or the Sheriff, where any resolution of a meeting of the Creditors is complained of, to order a new meeting to be held, in order to reconsider the resolution complained of.

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119.

Review of
Sheriff's
Judgments.

And be it Enacted, That it shall be competent to bring under the review of the Inner House of the Court of Session any deliverance of the Sheriff, (except where the same is declared not to be subject to review), provided a reclaiming note shall be lodged with the Clerk of the Bill Chamber and marked by him within *Twenty-one Days* (unless

(unless herein otherwise directed) from the date of such deliverance, failing which the same shall be final; and such reclaiming note shall be disposed of by the Inner House as speedily as the forms of Court will allow; and if it be lodged in time of vacation, the Lord
 5 Ordinary may hear parties and give judgment; and it shall be competent for the Inner House or the Lord Ordinary to remit to the Sheriff with instructions.

And be it Enacted, That where a judgment of the Lord Ordinary is intended to be brought under review of the Inner House, the same
 10 shall be done by a reclaiming note in common form.

120.
Review of
Lord Ordinary's Judgments.

And be it Enacted, That during the dependence of appeals, petitions and complaints, or reclaiming notes, it shall be competent to the Sheriff to give such orders as may be necessary to regulate the interim possession and administration of the estate.

121.
Regulation by Sheriff of Interim Possession.

And be it Enacted, That if any appeal shall be made to the
 15 House of Lords, the Sequestration shall in all respects, not inconsistent with or injurious to the interests which may be affected by the appeal, proceed without interruption.

122.
Appeals to House of Lords.

And be it Enacted, That the Sheriff of each county shall, on or before the *Twelfth* day of *November* in each year, appoint a day and
 20 hour, between the *First* and *Twentieth* day of *December* thereafter, to hold a Court, with continuation of days, for Sequestration causes, and the Sheriff Clerk shall make up a Roll of all Sequestration causes which have been remitted as aforesaid, and have been before the Sheriff for *One* Year or upwards; and the Sheriff Clerk shall,
 25 *Fourteen* Days before the day so appointed, publish in the *Edinburgh Gazette*, and in such other newspaper as the Sheriff may direct, an advertisement announcing the day and hour appointed, and he shall at the same time affix on the walls of the Court a List of the said Sequestration causes to be called; and the
 30 expense of the said advertisement shall be defrayed equally by the said several estates.

123.
Annual Courts to be held by Sheriff as to Sequestrations.

And be it Enacted, That *Forty-eight* Hours previous to the hour so appointed, the Trustee shall lodge with the Sheriff Clerk a Report on the state of the Sequestration, and the causes, if any, which
 35 have retarded the winding up of the same, and he shall at the same time lodge a certified copy of his account-current with the estate, since the same was last audited by the Commissioners, or reported to a meeting of the Creditors.

124.
Trustee to lodge Report.

And be it Enacted, That every Trustee on a sequestrated estate shall attend at the time and place aforesaid, when the said report shall be considered, provided notice shall have, at least *Eight* Days
 40 before

125.
Trustees to attend the annual Court.

before the time so appointed, been given by a Creditor to the Trustee, that he shall be required to answer relative thereto; and the Trustee shall thereafter answer any questions which any Creditor ranked on the estate shall, with the sanction of the Sheriff, put to him thereanent; and he shall, if so required, exhibit the sederunt book, bank book and vouchers of his disbursements; and if the Sheriff be not satisfied with the answer of the Trustee, or if he otherwise see cause, he shall order a meeting of the Creditors to be held at a certain time and place, which meeting shall be advertised in the Edinburgh Gazette by the Trustee, and held accordingly; and if the Trustee shall fail to lodge such report or copy of the account, or to attend the said Court, without assigning a sufficient excuse to the satisfaction of the Sheriff, any Creditor may apply to the Lord Ordinary for his removal in manner herein mentioned, and to find him liable in the whole expenses occasioned by his improper conduct.

If Trustee fail to do so, Creditor may apply for removal.

126.

Agents in Court of Session may be Agents in causes under this Act before the Sheriff.

And be it Enacted, that it shall be lawful for all agents duly qualified to practise before the Court of Session to practise in all Sheriff Courts in so far as relates to any of the proceedings authorized by this Act to be carried on before the Sheriff, provided that they shall not be entitled to payment of any higher fees than those allowed by this Act, or legally exigible in such Courts.

127.

Trustee to make an annual Return to Sheriff Clerk, and he to Bill Chamber Clerk.

And be it Enacted, That each Trustee shall on the *Thirty-first day of December* yearly deliver free of expense to the Sheriff Clerk of the county a return, in the form of the Schedule marked (M.) hereunto annexed, of every Sequestration in which he is Trustee; and the Sheriff Clerk shall within *Fourteen Days* thereafter transmit, in the form of the said Schedule, to the Bill Chamber Clerk a return of all the Sequestrations depending in the sheriffdom or ward whereof he is Clerk; and the Bill Chamber Clerk shall cause the returns so made to be regularly inserted in a volume to be kept at all times in his office, with an index thereto framed by the said Clerk, and which volume shall be patent to all concerned; and any Trustee who shall fail to make such return shall be removable from his office at the instance of any one Creditor, or subject to such censure as the Lord Ordinary or Sheriff may think suitable, and be found liable in expenses.

128.

Trustee's discharge.

And be it Enacted, That after a final division of the funds, the Trustee shall call a meeting of the Creditors by an advertisement in the Edinburgh Gazette, and by letters addressed by post to every Creditor who has lodged a claim on the estate, to consider as to an application for his discharge; and at such meeting he shall lay before the Creditors the sederunt-book and books of account, with a list

Proceedings for this purpose.

list of unclaimed dividends; and the Creditors may then declare their opinion of his conduct as Trustee; and he may thereafter apply to the Lord Ordinary or the Sheriff, who, on advising the petition with the minutes of the meeting, and hearing any Creditor,
5 may pronounce or refuse decree of exoneration and discharge; and such decree, if granted, shall be entered in the Register of Sequestrations, and the bond of caution for the Trustee delivered up.

And be it Enacted, That every Trustee in any Sequestration awarded under this Act or under any former Act shall, before his
10 discharge, transmit the sederunt book to the Bill Chamber Clerk, who shall thereupon intimate to the Trustee the bank in which the unclaimed dividends are to be deposited, and he shall name the same in the following rotation; videlicet, the Bank of Scotland,
15 the Royal Bank of Scotland, the Bank of the British Linen Company of Scotland, the Commercial Bank of Scotland, and the National Bank of Scotland; and the Trustee shall forthwith transfer the whole dividends not then claimed to the bank so intimated, to be there entered in an account to be kept under the title of "Account of unclaimed Dividends;" and a book or books shall be kept at the
20 office of the Bill Chamber Clerk, showing such rotation, and containing a list, with the names arranged alphabetically, of all the Creditors entitled to such unclaimed dividends, and in what bank deposited, which shall be patent to all persons; and after the discharge of the Trustee, it shall be competent for any person producing
25 evidence of his right to apply to the Lord Ordinary for authority to receive such dividends, and, on the Lord Ordinary being satisfied of the claimant's right, a warrant shall be granted for payment of such dividend, and upon such warrant the bank shall pay the same; provided that the claimant shall not be entitled to interest on such
30 dividend, but all interest shall go into a general fund to be called "The Interest Account of Unclaimed Dividends," which fund shall be applicable to the payment of expenses attending the management thereof, in such manner as shall be regulated by any Act of Parliament; and if at the end of *Twenty-five* Years from the date of closing
35 any Sequestration there shall remain in the bank any unclaimed dividends belonging to the estate, the same shall be vested in Government stock, and the dividends thereon shall be regularly accumulated for the purpose of forming a fund for defraying the expense of proceedings in Bankruptcy, or otherwise as Parliament
40 shall hereafter direct.

129.
All Trustees to lodge unclaimed Dividends, &c. in Bank.

Claimants showing right to apply to Lord Ordinary.

Interest Account of Unclaimed Dividends.

And be it Enacted, That any surplus of the Bankrupt's estate and effects that may remain after payment of his debts, with interest, and the charges of recovering and distributing the estate, shall be paid to the Bankrupt, or to his successors or assignees.

130.
Surplus to be paid to Bankrupt.

131.
Provisions as
to Perjury.

And be it Enacted, That if any person shall be guilty of wilful falsehood in any oath or affirmation made in pursuance of this Act, he shall be liable to a prosecution either at the instance of His Majesty's Advocate, or at the instance of the Trustee with the concurrence of His Majesty's Advocate, at the expense of the estate, 5 provided the prosecution shall be authorized by a *majority* in value of the Creditors present at a meeting to be called for the purpose; and such person shall on conviction, besides the usual punishment, forfeit to the Trustee, for behoof of the Creditors, his whole right, claim and interest in or upon the sequestrated estate. 10

132.
Deliverances,
&c. may be
partly print-
ed; and *One*
Witness suffi-
cient in Exe-
cutions.

And be it Enacted, That all deliverances, bonds, schedules and executions under this Act may be either printed or in writing, or partly both; and not more than One Witness shall be required for service or execution.

133.
No Fee Fund
Dues exigible.

Fees payable.

And be it Enacted, That from and after the commencement of this 15 Act no payment shall be exacted as a contribution towards the Fee Fund at presenting any appeals, petitions or complaints, reclaiming notes, or any papers, under this Act: Provided, that in place of the whole fees heretofore exigible upon proceedings in Sequestrations, there shall be payable upon all proceedings under 20 this Act the fees which are set forth in the Schedule marked (N.) hereunto annexed, and no others; and no Officer receiving any fees under this Act shall hold any vested interest in the same, but the fees hereby exigible shall be subject to regulation, without any claim for compensation on his part. 25

134.
Gazette
Keeper to
furnish copy
of Gazette to
Keeper of
Edictal Cita-
tions.

Charges on
Advertisements under
this Act or 6 &
7 Wm. 4, c.
regulated.

And be it Enacted, That from and after the *passing of this Act* the Keeper of the Edinburgh Gazette shall on each day of publica- tion furnish a copy thereof to the Keeper of Edictal Citations, who shall keep the same regularly filed, and make the same on all occasions patent to the lieges at office hours, on payment of a fee of 30 *Sixpence*: And no advertisement inserted in the said Gazette by virtue of this Act, or an Act of the sixth and seventh year of His present Majesty, intituled, "An Act for regulating the Process of Cessio Bonorum in the Court of Session, and for extending the Jurisdiction of Sheriffs in Scotland to such cases," shall be 35 charged by the Keeper of the said Gazette, for publication therein, at a higher price, nor shall a higher price be paid for such publica- tion, than the sums specified in the Schedule (O) hereto annexed.

135.
Conveyances,
Deeds, &c.,
relating to
Estates of
Bankrupts,
not liable to
any Stamp-
duty.

And be it Enacted, That from and after the *commencement of this Act*, all conveyances, assignations, instruments, discharges, writ- 40 ings or deeds, and all notes or schedules to be registered in man- ner hereinbefore provided relating solely to the estate belonging to any

- any Bankrupt against whom Sequestration has been or may be awarded either under this or any former Act, and also all powers of attorney, commissions, factories, affidavits, certificates, bonds, articles of roup or sale, relating solely to the estate of any Bankrupt sequestrated as aforesaid, and all other deeds or writings forming a part of the proceedings ordered under such Sequestration, and all notices or advertisements inserted in the Edinburgh Gazette relative thereto, shall be exempt from all stamp-duties or other Government duty, and no rates or duties imposed by any Statutes upon the sale of estates or effects by auction shall be exigible on the sale of any estates or effects by auction under the authority of this Act: Provided always, That no exemption from auction-duty shall be allowed on the sale by auction under this Act of any estate and effects, unless the auctioneer who shall conduct such sale shall, at the time of passing his account thereof, produce to the Officer of Excise a catalogue signed and certified by the Trustee by whose order such sale shall have been made, in manner and form required by the laws of the Excise.

Gazette Advertisements and Sales by Auction not liable to Duty.

- And be it Enacted, That it shall be lawful for the Judges of the Court of Session, by an Act or Acts of Sederunt, from time to time to regulate the procedure of Sheriff Courts in relation to this Act, and also to establish a table of fees fixing the remuneration to be allowed to agents, both in the Court of Session and Sheriff Court, for conducting the proceedings, which Act or Acts of Sederunt shall within *One* month after the making thereof be transmitted by the Lord President of the Court of Session to the Secretary of State for the Home Department, that the same may be laid before both Houses of Parliament.

136.
Acts of Sederunt may be made.

- And be it Enacted, That this Act may be repealed, altered or amended during the present Session of Parliament.

137.
Act may be repealed or amended.

SCHEDULES

REFERRED TO IN THIS ACT.

SCHEDULE (A.)

DENUNCIATION OF INSOLVENCY.

I, A. B. [say Messenger or Sheriff Officer, as the case may be], notify to you, C. D. [insert name and designation], that you, having disobeyed the charge given to you [say personally, or at your dwelling-house or place of business, or at the Office of Citations, as the case may be], by [name the Messenger or Officer by whom it was given], on the day of to pay to E. F. [name and designation] the sum [mention the sum for which the charge was given], by virtue of [give the description of the diligence], dated the day of ; therefore you are hereby denounced Insolvent in terms of the Statute thereanent. This I do on the day of , before [insert name and designation of one witness.]

G. H. [witness to sign here] witness.

(signed) A. B.

SCHEDULE (B.)

EXECUTION OF DENUNCIATION.

UPON the day of I, A. B. [say Messenger at Arms or Sheriff Officer, as the case may be], notified to C. D. [insert name and designation], that in consequence of having disobeyed the charge given to him by [name the Messenger or Officer] on the day of to pay to E. F. [give the name and designation] the sum [mention the sum for which the charge was given], by virtue of [give the description of diligence], dated the day of ; therefore I denounced the said C. D. Insolvent, in terms of the Statute thereanent, by delivering to him a denunciation [say personally, or at the dwelling-house or place of business, or at the Office of Citation, as the case may be], which denunciation did bear the date hereof, and was subscribed by me, with the name and designation of G. H., witness [mention name and designation] hereto with me subscribing, present at the premises.

G. H. [witness to sign here] witness.

A. B.

SCHEDULE (C.)

CERTIFICATE OF REGISTRATION OF DENUNCIATION.

THE above execution of denunciation was presented by [name and designation], and registered day of .

A. B.

SCHEDULE (D.)

REGISTER OF SEQUESTRATIONS.

Date of First Deliverance.	Name and Designation of Debtor.	County of Debtor's Residence or Business.	Name and Designation of Petitioning or Concurring Creditor.	Date of awarding. (If recalled, Entry to be in this Column.)	Time and Place for electing Interim Factor.	Name and Designation of Interim Factor.	Time and Place for electing Trustee.	Trustee's Name and Designation.	Time for lodging Claims for Dividend.

SCHEDULE (E.)

ABBREVIATE FOR THE REGISTER OF INHIBITIONS.

PETITION for Sequestration of A. B. [designation.]

Date of first deliverance

day of

(Signed)

C. D. (If an Agent, state so.)

SCHEDULE (F.)

NOTICE FOR THE GAZETTE.

Sequestration of A. B. [designation.]

DATED [insert date of first deliverance]. Meeting to elect Interim Factor, to be held on [specify day of week, month, year and hour], at [specify place of meeting], and also Meeting to elect Trustee and Commissioners, and receive any offer of composition, on [day of week, month, year and hour], at [specify place of meeting]. The first dividend will be paid to those only who lodge oaths and grounds of debt on or before the [insert date].

(signed) P. Q. Agent.

SCHEDULE (G.)

FORM OF BOND OF CAUTION FOR AN INTERIM FACTOR OR TRUSTEE.

I, A. B. [designation], having been appointed Trustee [or Interim Factor] on the sequestrated estate of C. D. [designation]; and I, E. F. [designation] as Cautioner, Surety and full Debtor for and with the said A. B., hereby bind and oblige ourselves, conjunctly and severally, our heirs and executors, that I the said A. B. will faithfully discharge all the duties which by law attach to the said office of Trustee [or Interim Factor], and fully account for my whole intromissions with the funds and effects of the said estate, and make payment of any balance due by me to the Creditors on the said estate, or Trustee elected by them to succeed me; declaring that this Bond shall not be in any way affected, or the said Cautioner liberated, by any omission, negligence or want of diligence on the part of the Creditors or Commissioners on the said estate. [In case the caution has been limited by the Creditors, the following clause will be here inserted: And declaring further, that this Bond, so far as concerns me the said E. F., shall not bind me or my foresaids to a greater extent than the sum of [here insert sum in writing], to which my obligation before written is hereby limited.] In witness whereof, this Bond (so far as not printed) written and filled up by [here shall be inserted in writing a testing clause in legal form.]

O. T., Witness.

F. L., Witness.

(signed)

A. B.

E. F.

SCHEDULE (H.)

ACT AND WARRANT TO THE INTERIM FACTOR.

THE Creditor on the sequestrated estate of A. having elected C.D. Interim Factor thereon, he is hereby invested with all the powers conferred on Interim Factors by an Act passed in the _____ of the reign of His Majesty King William the Fourth, intituled [insert the title of this Act.] [signed by Sheriff Clerk.]

SCHEDULE (I.)

ACT AND WARRANT IN FAVOUR OF THE TRUSTEE.

In the Sequestration of the Estate of A. B. [designation.]

THE whole of the heritable and moveable estates and effects, and all estates real and personal, wheresoever situated, of the said A. B. are transferred and belong to D. E. [designation], as Trustee for behoof of the Creditors of the said A. B., in terms of the Act of the _____ of the reign of His Majesty King William the Fourth, intituled [here insert the title of this Act], and the said C. D. has, as Trustee aforesaid, in terms of the said Act, full right and power to sue for and recover all estates, effects, debts and money belonging or due to the said A. B.

(signed) C. D., Sheriff Clerk.

SCHEDULE (K.)

FOR THE RECORD OF ABBREVIATES.

THE whole heritable and moveable estates and effects, and all estates real and personal, wheresoever situated, of A.B. [designation], are transferred and belong to D. E. [designation], as Trustee on his sequestrated estate, in terms of an Act of the _____ of the reign of His Majesty King William the Fourth, intituled [here insert the title of this Act].

(Signed by the Trustee or his Agent.)

SCHEDULE (L.)

FOR THE GAZETTE.

Sequestration of A. B. [designation.]

C. D. [designation] elected Trustee on the estate, and E. F. and G. [designations] elected Commissioners. Examination in the Sheriff Court-house on [day of week] the _____ of [month] next, at [hour of the clock]. The Creditors meet in the same place, on _____ at _____ o'clock. [If any offer of composition has been entertained at the meeting for election of Trustee, intimate this as provided by the Act.]

(Signed by the Trustee.)

SCHEDULE (M.)

ANNUAL RETURN by each TRUSTEE on the *Thirty-first* day of *December*; and by each SHERIFF CLERK within *Fourteen* Days thereafter.

Name of of Bankrupt.	Date of Sequestration.	Interim Factor and Trustee.	Dividend paid or unpaid.	Amount of Debts proved.	Allowance.	Protection.	Discharge on Composition or without Composition.

SCHEDULE (N.)

TABLE OF FEES PAYABLE UNDER THIS ACT.

I.—IN THE COURT OF SESSION.

(1.) To the Bill Chamber Clerk :

	£.	s.	d.
For recording an execution of denunciation of Bankruptcy - - - - -	0	2	6
For every extract of such recorded execution - - - - -	0	2	6
On every deliverance awarding Sequestration, granting discharge to the Bankrupt, approving of composition, or exonerating the Trustee, and entering the same in the office minute book - - - - -	0	5	0
On every deliverance specially adjudging heritable property to belong to the Trustee, and entering the same in the office minute book - - - - -	0	5	0
On every other deliverance (not being merely an order for papers, revisals, or such like), and entering same in the office minute book - - - - -	0	2	6
For entering the first deliverance and the deliverance awarding Sequestration in the register of Sequestrations - - - - -	0	1	0
For entering the name and designation of the Trustee - - - - -	0	1	0
For every borrowing of the proceedings or any part thereof, and for every returning thereof, each - - - - -	0	1	0
For every certified copy or extract from said register of Sequestrations, or of any part of the proceedings, per sheet - - - - -	0	1	0
For inspection of the list of unclaimed dividends, and certifying any extract made therefrom - - - - -	0	1	0
On the lodging of the Trustee's accounts - - - - -	0	1	0

(2.) To the Keeper of the General Minute Book :

For entering the first deliverance and deliverance awarding Sequestration, adjudication and discharge, and approval of composition, each - - - - -	0	2	6
For entering any other deliverance or intimation - - - - -	0	1	0

(3.) To the Extractors :

For every extract made of the proceedings, or of the deliverance of the Lord Ordinary or Inner House, per sheet - - - - -	0	1	0
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II.—TO THE KEEPERS OF THE RECORDS.

For entering any schedule - - - - -	0	1	0
For entering on the margin of any record the recall of Sequestration, or discharge in favour of the Bankrupt - - - - -	0	1	0
For access to and liberty to make excerpts of proceedings under this Act from any register or record appointed herein to be kept, or in which entries are herein appointed to be made, a fee of One shilling for each year of the record inspected; but not exceeding in all for any One record - - - - -	0	10	0
For extracts or certified copies therefrom, per sheet - - - - -	0	1	0
For collating and certifying excerpts therefrom, per sheet - - - - -	0	0	6

III.—SHERIFF COURT.

(1.) To the Sheriff Clerk :

On every deliverance pronounced by the Sheriff, appointing an Interim Factor, preferring a Trustee, appointing diets of examination, granting a discharge to the Bankrupt, approving of composition, or exonerating the Trustee - - - - -	0	2	6
For every other deliverance, not being merely an order for papers or revisals - - - - -	0	1	0
For issuing, receiving back and examining bond of caution for an Interim Factor or Trustee, to be paid at the issuing of bond - - - - -	0	2	6

	£.	s.	d.
For receiving and entering in Schedule (I.) each oath and objection and transmission thereof, to be paid by the Interim Factor or Trustee - - -	0	0	6
For oath of the Bankrupt, and examinations of him or others, per sheet - - -	0	1	0
For every warrant of apprehension of the Bankrupt or others, or commission to take examination - - - - -	0	2	6
For every backing of such warrant - - - - -	0	1	0
For every certified copy or extract of the proceedings before the Sheriff, or of any deliverance pronounced by him, per sheet - - - - -	0	1	0
For every annual report of the depending Sequestrations, for each Sequestration, to be paid by the Trustee - - - - -	0	0	6
For every borrowing of all or any part of the proceedings - - - - -	0	0	6
(2.) To the Sheriff attending any meeting of Creditors or examination, for each such meeting or diet of examination, not being on the same day -	1	1	0

IV.—OATHS.

To the magistrate or other person appointed to take oaths under this Act, for each oath - - - - -	0	5	0
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SCHEDULE (O.)

TABLE of PRICES payable for ADVERTISEMENTS in the EDINBURGH GAZETTE.

Bankrupts' Estates (Scotland.)

A

B
I
L
L

For regulating the Sequestration of the
Estates of Bankrupts in Scotland.

(Prepared and brought in by
The Lord Advocate and Mr. Attorney General.)

Ordered, by The House of Commons, to be Printed
21 March 1837.



B I L L

For regulating the Sequestration of the Estates
of Bankrupts in *Scotland*.

WHICH AS an Act was passed in the fifty-fourth year of the reign of his Majesty King GEORGE the Third, intituled, “An Act for rendering the Payment of Creditors more equal and expeditious in *Scotland*,” which has been continued by several subsequent Acts, but is now about to expire; and it is expedient that it should be repealed (except in so far as hereinafter continued), and that provisions be made in place thereof; **Be it therefore Enacted**, by The KING’s most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the said recited Act shall be and is hereby continued until the

1. Commencement of this Act, and 54 Geo. 3, in part repealed.

2. Depending Sequestrations to be proceeded in under recited Acts.

3. Construction and Meaning of Words.

389. A the

the Court of Session; that the word "County" shall include Sheriffdom, Shire and Stewartry, and every Ward, District or Division thereof; that the word "Sheriff" shall include Sheriff Substitute, and Stewart, and Stewart Substitute; that the word "Sheriff Court" shall include Stewart Court; that the word "Sheriff Clerk" shall include Sheriff Clerk Depute, Stewart Clerk, and Stewart Clerk Depute; that the word "Commissioners" shall mean a majority of the Commissioners hereinafter mentioned; that the word "Estates" shall comprehend every kind of property, heritable or moveable, real or personal, and all lands, tenements and hereditaments wherever situated, and any part thereof; that the word "Deliverance" shall include an Order, Warrant, Judgment, Interlocutor, or Decree; that the word "Security" shall include all Securities, heritable or moveable, real or personal, and all Liens and Preferences, and all Conveyances thereof; that the word "Successors" shall mean heirs, heirs apparent, representatives by deed or otherwise, executors and nearest of kin, and also assignees and singular successors, where they have acquired the right; that the word "Month" shall mean a Calendar Month; that the word "Oath" shall include Affirmation, where by law such Affirmation shall be required to be taken in place of an Oath; that the word "Vote" shall, as well as the ordinary meaning thereof, import a consent to any offer of composition and to a discharge of the Debtor, and also a dissent from such offer or discharge, and generally any act as a Creditor; that the words "Debtor," "Bankrupt" and "Creditor" shall mean Bodies Corporate, Politic or Collegiate, Companies or Partnerships, as well as Individuals, and shall, as well as all other words importing the singular number and masculine gender, include several persons as well as one person, and females as well as males, and several matters of the same kind as well as one matter, unless it shall be otherwise provided, or the subject-matter or context be repugnant to such construction: And this Act shall be construed in the most beneficial manner for promoting the ends hereby intended, and shall include married women carrying on trade independent of their husbands, and widows and aliens, provided they fall within any of the descriptions hereinafter mentioned.

Act to be construed beneficially for the ends thereof.

4.
CLAUSE (A.)
Persons
abroad, or in
Sanctuary, or
Privileged, or
Protected,

And be it Enacted, That in all actions and questions arising on the construction and effect of an Act of the Parliament of *Scotland*, made in the year One thousand six hundred and ninety-six, intituled, "An Act for declaring Notour Bankrupts," if any person subject to the laws of *Scotland*, shall happen to be forth of that part of the territory of the United Kingdom, or not liable to be imprisoned by being in the sanctuary, or by reason of privilege or personal protection, a charge of horning executed against him, together with either

either an execution of arrestment of any of his effects not loosed or discharged within Fifteen Days after the date thereof, or an execution of poinding of any of his moveables, or a decree of adjudication of any part of his Heritable Estate for payment or security of debt, shall, when joined with Insolvency, be held a sufficient proof of legal Bankruptcy, and equivalent to the description of Notour Bankruptcy given in the Act of the Parliament of *Scotland* before mentioned, made in the year One thousand six hundred and ninety-six; and it is hereby declared that such Insolvent Debtor shall, from and after the period when both the charge of horning against the person, and one or other of the said diligences of arrestment (not loosed or discharged as aforesaid) or poinding have been executed, or decree of adjudication obtained, be holden and deemed a legal or Notour Bankrupt, and subject to the regulations of the said Act in the year One thousand six hundred and ninety-six, as hereby extended and explained: And when any one shall have abandoned his ordinary place of residence in *Scotland* for Forty Days, without having some other known place of residence within *Scotland*, or without having left notice at his last place of residence where he is to be found within *Scotland*, and is not found there, he shall, on an execution by a Messenger or other competent officer, being returned to that effect, be held for the purposes of this Act to be forth of *Scotland*: and every person, whether he be out of *Scotland* or not, whose Estate has been or shall be sequestrated under the authority of any of the Acts before recited, or of this present Act, shall in like manner be holden and deemed a Notour Bankrupt in all questions upon the Act of One thousand six hundred and ninety-six, from and after the date of the first deliverance on the petition to the Court of Sessions for awarding the Sequestration.

may be made
Bankrupt.

Date of
Bankruptcy.

And be it Enacted, That when a Debtor is made legally Bankrupt in terms of the said Act, made in the year One thousand six hundred and ninety-six, or of this Act, all arrestments which shall have been used for attaching any effects of such Bankrupt within Sixty Days prior to the Bankruptcy, or within Four calendar Months thereafter, shall be ranked *pari passu*, in the same manner as if such arrestments had been of the same date; and in time coming, letters or precepts of arrestment upon any depending action may be granted summarily upon production of the libelled summons; and it shall be no objection to the *pari passu* preference hereby established, that the summons upon which any arrestment proceeds was not executed, or that the debt upon which it is founded was not liquidated at the date of the arrestment: Provided always, That these and all other necessary steps, are afterwards taken without any undue delay; and in case the first, or any subsequent arrester, shall, in the meantime, have obtained a decree of forthcoming or preference, and thereupon

5.
CLAUSE (B.)
Pari Passu
Preference of
Arrestments
in certain
cases.

Arrestments
on depend-
ence, or for
illiquid Debt.

Mora.

Restitution
on Action.

shall have recovered payment, he shall nevertheless be accountable for the sum recovered to those who, by virtue of this Act, may be eventually found to have a *pari passu* preference thereon, and shall be liable to an action at their instance for payment to them proportionally, after allowing out of the fund the expense of making it effectual; and provided further, that if there be any arrestments used for attaching the same effects after the period of Four Months subsequent to the Bankruptcy, such an arrestment shall not compete with those used prior to, or within the period aforesaid, but may rank with one another on any reversion of the fund attached, according to the former law and practice.

Expense
allowed.
Arrestments
after Four
Months.

6.

CLAUSE (C.)
Citations to
be made at
Office of
Edictal Cita-
tions, instead
of Pier and
Shore.

And be it Enacted, That in all cases in which Citation has heretofore been in use, to be made at the Market Cross at *Edinburgh*, and pier and shore of *Leith*, not already provided for by any Act or Acts of Parliament, such Citation shall, after the said first day of October, be made at the office of Edictal Citations of the Court of Session, and all schedules and charges in relation to such Citation shall be registered and published in the same manner in which charges are directed to be registered, and published by an Act passed in the sixth year of the reign of his late Majesty King GEORGE the Fourth, intituled "An Act for the better Regulating of the of Process in the Courts of Law in *Scotland*."

7.

CLAUSE (D.)
Assessment at
Market-Cross
&c. no suffi-
cient Inter-
pellation.

And be it Enacted, That an arrestment executed at the Office of Edictal Citations to attach the effects of the Debtor, as in the hands of a person out of *Scotland*, shall not be held to have interpellated such person from paying to the original creditor, unless proof be made that he, or those having authority to act for him, were previously in the knowledge of such arrestment having been so used.

8.

CLAUSE (E.)
Pounded
Goods to be
sold by Roup.

And be it Enacted, That the messenger, or other person employed in executing a pouding for debt, shall leave the pounded goods in the hands of the debtor, with a schedule of the pounded goods and note of the appraised values (one appraisement being in every case sufficient), and shall forthwith report his execution of pouding to the Sheriff or other Judge Ordinary, who shall give direction for keeping the goods pounded in safe custody, and selling them by public roup, after such publication, (not shorter than eight free days, nor longer than Twenty from and after the day when the order was given), and at such time and place as circumstances may require, and who shall give all necessary orders for intermediate security, any person who intromits with, or carries of the goods in the meantime, in order to disappoint the pouding being liable in double the appraised value thereof; and a note or minute of the sale, and of the

Report to
Sheriff.

Warrant for
Sale.

Intromitters.

Note of Sale.

the sum arising from it, shall be, within Eight Days of the sale, lodged with the clerk to the said Sheriff or Judge Ordinary, and forthwith marked by him as so lodged, within Eight Days after such sale, to be made patent to all concerned for a fee of One Shilling; and the net sum arising from such sale, after deduction of all charges, or the goods, in case no offerers appear, shall be delivered over to the pointing Creditor.

Proceeds.

And be it Enacted, That when a person has been rendered legally Bankrupt as aforesaid, no pointing of the moveables belonging to such Bankrupt used within Sixty Days before the Bankruptcy, or within Four calendar Months thereafter, shall give a preference to such pointer, but that every other Creditor of the Bankrupt having liquidated grounds of debt or decrees for payment, and summoning such pointer, or judicially producing the same in any process or competition relative to the goods or price thereof before the said Four Months are elapsed, shall be entitled to a proportional share of the price of the goods so pointed effeiring to his debt, deducting always the expense of such pointing, which the pointer shall retain in preference to the other Creditors: Provided, That all pointings after the Four Months shall have such preference as they were entitled to by former law and practice.

9.
CLAUSE (F.)
Pari Passu
Preference of
Pointings in
certain cir-
cumstances.

And be it Enacted, That the Trustee in Sequestration shall, for behoof of all the Creditors proving their debts in the Sequestration, be held as an arresting and pointing Creditor to have the benefit of the *pari passu* preference hereinbefore provided.

10.
CLAUSE (G.)

And be it Enacted, That where a debtor shall, after the expiration of the said Four Months, be rendered a second time Notour Bankrupt, the same rules which are hereinbefore provided in relation to the first Notour Bankruptcy, shall in all competitions among Creditors pointing or arresting any effects within Sixty Days before, or within Four Months after such Bankruptcy take place and receive effect: Provided, That the second Notour Bankruptcy shall have no effect on any competition as to the effects pointed within Sixty Days before, or within Four Months after the first Notour Bankruptcy; and the same rules shall also receive effect where any subsequent Notour Bankruptcy shall take place after the expiration of Four Months from the immediately preceding Notour Bankruptcy: And nothing herein contained shall effect any competition as to any pointing or arrestment which may have arisen or shall arise under any law existing prior to the said First day of October: saving always the Landlord's right of hypothec for Rents, or any other hypothec known in law, which shall be nowise hurt or impaired by any thing contained in this Act.

11.
CLAUSE (H.)
Same Rules as
in a first to
apply in a
second or
subsequent
Bankruptcy.

Landlord's
Hypothec.

12.

CLAUSE (I.)
Acts of Scot-
land of 1681
and 1695 re-
cited,

AND whereas an Act of the Parliament of *Scotland*, in the year One thousand six hundred and eighty-one, chapter seventeen, intituled, "An Act concerning the Sale of Bankrupts' Lands," required certain forms of publication and citation, which in practice have been found to be expensive and inconvenient; and another 5
Act of the Parliament of *Scotland*, in the year One thousand six hundred and ninety-five, chapter six, intituled, "Act regulating the Sale and Payment of Bankrupts' Estates," made it lawful for purchasers of such estates to consign the price, after a certain time, in the hands of the Magistrates and Town Council of *Edinburgh*, 10
which method has been found inconvenient, and has seldom been practised; and by an article in the Regulations of the Session established in the same year One thousand six hundred and ninety-five, section twenty-six, it was provided, that the ranking of the creditors should proceed and be concluded by decree before the sale 15
of the lands, which regulation has generally been prejudicial to the creditors; BE it Enacted, That the said in part recited Acts shall be and the same are hereby in so far repealed; and the Court of Ses- sion shall have full power to make Acts of Sederunt for abridging the forms of publication and citation, and regulating the proceed- 20
ings in processes of sale, ranking and division, whether at the instance of creditors or of apparent heirs; and in every case of a sale under the authority of the Court of Session, it shall be lawful to the purchaser, at any term of Whitsunday or Martinmas subse- 25
quent to the term of payment of the price, to lodge the price, with the interest due upon it, in the Royal Bank, or Bank of *Scotland*, or the Bank of the *British* Linen Company, at such interest as can be procured for it, by doing which, and by giving notice thereof to the agent who carried on the sale, he shall be discharged of the said price; and further, the Court of Session, upon the application of 30
any of the creditors, shall be empowered to make an order on the purchaser to lodge the price and interest, at any of the said terms, subsequent to the term of payment, in one or other of the said Banks, sufficient intimation being always previously given both to the purchaser and to the common agent for the creditors, that such 35
application is made in order that all parties may have an opportunity to object; and in all cases of judicial sales, the lands or other heritable subjects may be brought to actual sale, so soon as the necessary previous steps are taken, whether the ranking be con- cluded or not, unless the Court, upon application of any party 40
concerned, shall find sufficient cause to delay the sale.

and in part
repealed.
Judicial Sales
of Estates.

Purchaser
may lodge
Price in the
Bank, &c.

to the effect
of discharging
himself.

Order on the
Purchaser.

Sales may
precede
Ranking.

13.

CLAUSE (K.)
Interest and
Burdens ex-
ceeding In-
come.

And be it Enacted, That a judicial sale at the instance of Cre- ditors may in all cases proceed where the Debtor is Notour Bank- rupt, or where the interest of the debts and the other annual burdens exceed the yearly income of the subjects under sale, or where

where a sequestration shall have taken place under this or any former Statute, without other proof of Bankruptcy or Insolvency.

Sequestration.

5 And be it Enacted, That after the First day of October next, any Debtor who is the owner of heritable Estate within *Scotland*, whether Bankrupt or not, may, as well as the apparent heir of such Debtor, raise and insist in a Summons of Ranking and Sale before the Court of Session, which shall proceed as in other cases of judicial Sale and Ranking.

14.
CLAUSE (L.)

10 AND whereas by an Act of the Parliament of *Scotland*, in the year One thousand five hundred and forty, chapter one hundred and six, concerning charges to enter Heir, and another Act in the year One thousand six hundred and twenty-one, chapter twenty-seven, concerning apprisings against Heirs, it was ordained that charges against Heirs unentered, which are to be the foundation of apprising
15 against their predecessor's lands, might proceed at the instance of Creditors commanding them to enter within Forty Days after the charge; but it has been doubted whether the same or a longer term is required when the person charged is out of *Scotland*; and it is expedient that such *induciæ* should not be of long duration; BE it
20 Enacted, That the *induciæ* of a charge to enter Heir shall in no case exceed Forty Days, whether the person charged be within the Kingdom or out of it; and that after one such charge, whether general or special, has been given at the instance of any Creditor, every subsequent charge at the instance of the same or of any other Creditor,
25 may be upon the *induciæ* of Twenty Days only; any law or practice to the contrary notwithstanding.

15.
CLAUSE (M.)
Adjudications on Charges to enter Heir.

Against Persons abroad.

AND in order to lessen the number of adjudications for debt, and consequently the expense to all parties, and to facilitate the *pari passu* preference of Creditors in similar circumstances; BE
30 it Enacted, That the Lord Ordinary officiating in the Court of Session, before whom the process of adjudication against any estate for payment or security of debt is called, shall ordain intimation thereof to be made in the minute-book, and on the wall; and any other Creditor of the common Debtor, who can show that, although
35 he has not executed his summons of adjudication, he is in other respects, by the nature of the grounds of debt, and steps taken by him, in condition to proceed in adjudging the Debtor's estate, may, at any calling of the cause, produce the instructions of his debt, with a claim subscribed by counsel, setting forth the nature of his demand, the grounds thereof, and the amount of his debt, and be
40 conjoined in the decree of adjudication, Twenty sederunt Days being allowed for such intimation before the cause can be called a second time; and if any of these forms shall happen to be omitted,

16.
CLAUSE (N.)
Different Creditors may be joined in one Adjudication.

Intimation.

Requisites to be conjoined.

Omission of
Forms a Nul-
lity.

Subsequent
Adjudication.

Modification
of Penalties.

17.

CLAUSE (O.)
Decree of Sale
a General De-
cree of Adju-
dication.

Effect of it.

No Separate
Adjudication
allowed.

Other Credi-
tors may pro-
ceed with
Sale.

18.

CLAUSE (P.)
Mode of ren-
dering an Ad-
judication ef-
fectual.

the said adjudication shall be null and void, without prejudice to its being brought forward again in due form, or still conjoined with any after Adjudication, and without prejudice to the validity and order of ranking of posterior Adjudications according to the rules of law ; and when any after process or processes of Adjudication are brought into Court, the same shall be regulated as to the time and manner of proceeding in them, by an Act or Acts of Sederunt of the Court of Session, so as to provide, as far as circumstances will admit, for the *pari passu* preference of such posterior Adjudications with one another, and to abridge the number and expense of such proceedings ; and in all cases where penalties for non-payment over and above performance are contained in bonds, or other obligations for sums of money, and are made the subject of Adjudication, or of demand in any other shape, it shall be in the power of the Court to modify and restrict such penalties, so as not to exceed the real and necessary expenses incurred in making the debt effectual.

And be it Enacted, That when in any of the modes before mentioned, the estate of a Debtor is brought into the Court of Session by process of judicial sale and ranking, the decree of sale to be pronounced by the Court shall be held as a general decree of Adjudication in favour of every Creditor who shall afterwards be included in the decree of division ; and the effect of such general decree shall be the same in all competitions, or questions of ranking and preference, as if it had been pronounced and extracted of the date of the first calling of the process of sale before the Lord Ordinary in the Outer-House : and no separate Adjudication shall be allowed to proceed during the dependence of a judicial sale, it being hereby declared to be competent to the Court of Session to settle, by an Act or Acts of Sederunt, in what manner, and at what period or periods, the principal sums and bygone interests of the debts shall be accumulated, so as to do equal justice to all concerned ; but declaring, that it shall be competent to any Creditor who is in a situation to adjudge, to carry on the action of sale to its conclusion, although deserted or abandoned by the original pursuer.

AND in order to fix more clearly in time coming what diligence is necessary to make an Adjudication effectual ; BE it Enacted ; That the presenting a signature in Exchequer, when the holding is of the Crown, or the executing a general charge of horning against superiors at the office of Edictal Citations, when the holding is of a subject, and recording an abstract of the said signature or the said charge in the Register of Abbreviates of Adjudications, shall be held in all time coming as the proper diligence for the purpose aforesaid.

AND

19.
 CLAUSE (Q.)
 Further extension of the
 Act 1696, c.5.

AND whereas by the Act before mentioned, in the year One thousand six hundred and ninety-six, intituled, " Act for declaring Notour Bankrupts," it is, *inter alia*, declared, that all dispositions, heritable bonds, or other heritable rights, whereupon infeftment may follow, granted by the foresaid Bankrupt, shall only be reckoned, as to this case of Bankrupt, to be of the date of the sasine lawfully taken thereon; but it would be more expedient that, instead of the date of the sasine, the date of the recording of the sasine, or of an instrument of resignation *ad remanentiam* in the Register of Sasines and Reversions should be taken as the rule; BE it Enacted, That in all questions upon the said Act in the year One thousand six hundred and ninety-six, or this present Act, the dispositions, heritable bonds or other heritable rights, whereupon infeftment may follow, shall in time coming be reckoned to be of the date of the registration of the sasine or instrument of resignation *ad remanentiam* lawfully taken thereon, without prejudice to the validity or invalidity of the said heritable rights, in all other respects as formerly.

Date of recording the Sasine the date of the Security.

And be it Enacted, That in all questions upon the said statutes, all disposition, assignments and venditions, which do not require sasine, but to which intimation or delivery are requisite in order to render them complete as transferences or as securities, shall be reckoned to be of the date of the intimation, delivery, or other act requisite for completing the same, without prejudice to their validity in other respects.

20.
 CLAUSE (R.)
 Date of completion in Assignations, &c

AND whereas, by another clause in the said Act One thousand six hundred and ninety-six, it is declared, that any disposition, or other rights that shall be granted for hereafter, for relief or security of debts to be contracted for the future; shall be of no force, as to any such debts as shall be found to be contracted after the sasine or infeftment following on the said disposition of rights; but it would tend not only to the benefit of commerce, but also of agriculture and manufactures, if securities by infeftment for the payment or relief of future balances arising upon cash-accounts or upon credits, or of sums paid on such cash-accounts or credits, were made an exception from the rule laid down in the said recited clause; BE it therefore Enacted, That it shall and may be lawful for any person or persons, possessed of lands or other heritable subjects, and desiring to pledge the same in security of any sums paid or balances arising, or which may arise upon cash-accounts, or upon credits; or by way of relief to any person or persons who may become bound with him or them for the payment of such sums or balances, although posterior to the date of the infeftment, to grant heritable securities accordingly upon their said lands or other heritable estate, containing procuratory of resignation and precept of

21.
 CLAUSE (S.)
 Securities for Cash-Act-accounts or Credits.

Preamble.

Securities for Cash-Credits and for Relief.

Condition of
Limitation of
Sum.

Operations
not to injure
the Security.

To subsist for
the Balance
due.

sasine for infefting any bank or bankers, or other persons who shall agree to give them cash-accounts; or to allow them credits, to be operated on by drafts, bills, notes or otherwise; or for infefting such persons as shall become cautioners for them, or jointly bound with them in cash-accounts or credits: Provided always, That the sum to be drawn under the said cash-accounts or credits, shall be limited to a certain definite amount, to be specified in the security, for which definite sum, with interest, not exceeding Three years' interest thereon, at the rate of five per centum, the security shall be effectual: And it is hereby declared, That it shall any may be lawful to the person to whom any such cash-account or credit is granted, to operate upon the same, by drawing out and paying in such sums from time to time as the parties shall settle between themselves; and that the sasines or infeftments taken upon the said heritable securities shall be equally valid and effectual as if the whole sums advanced upon the said cash-account or credit had been paid prior to the date of the sasine or infeftment taken thereon; and that any such heritable security shall remain and subsist to the extent of the sum limited, or any lesser sum, until the cash-account or credit is finally closed, and the balance paid up and discharged, and the sasine or infeftment renounced; any thing to the contrary in the said recited Act notwithstanding.

22.
CLAUSE (T.)

And be it Enacted, That in all compositions under the said Acts, or this Act, if any creditor shall hold a security for payment of his debt upon any part of the debtor's estate or effects, then shall be deducted from his debt in competition the amount or value of such security to the effect of ranking such creditor for the balance only of his debt after such deduction.

23.
Sequestration
of Estates of
Debtors
without their
consent.

And be it Enacted, That the estates of any person subject to the laws of *Scotland*, who is a merchant, trader, manufacturer, banker, broker, warehouseman, wharfinger, underwriter, artificer, packer, builder, carpenter, shipwright, innkeeper, hotel-keeper, cattle-dealer, grain-dealer, dyer, printer, bleacher, fuller, calenderer, or who, either for himself, or as agent or factor for others, seeks his living, or a material part thereof, by buying and selling, or by buying and letting for hire, or by the workmanship of goods or commodities, or by any of the said occupations alone or in partnership with another; and the estates of any company subject to the laws of *Scotland*, and which is engaged in any of the said occupations, shall, in the said several cases, be liable to sequestration in terms of this Act without the consent of such person or company, provided that such person or company be Notour Bankrupt, and has carried on business in *Scotland* in any of the said occupations, and that such person or one of the partners of such company has resided in *Scotland* within a year before the date of presenting the Petition for Sequestration:

Sequestration: But it shall not be Competent to sequestrate the estate of any person as a partner of any Company incorporated or established by Act of Parliament or by Charter, unless such person consent, or unless his bankruptcy be caused by the bankruptcy of such Company; nor shall it be competent to sequestrate the estates of any landholder or farmer as such, unless he consent, or unless he be *bonâ fide* a dealer in cattle, which is not the produce of, nor grazed, nor worked on his farm, or be a dealer in grain not produced thereon.

10 And be it Enacted, That the estates of every debtor who is subject to the laws of *Scotland*, and who holds estates heritable or moveable within *Scotland*, may be sequestrated, although he be not Notour Bankrupt, provided that such debtor shall petition for Sequestration, with the concurrence of one or more creditors, qualified as hereinafter mentioned; and if the petition is not signed by the debtor, a mandate by him, authorizing such petition, shall be therewith produced.

24.
Sequestration
of Estates of
Debtors with
their consen

20 And be it Enacted, That Sequestration may be applied for of the estates of any deceased debtor by one or more of his creditors, qualified as hereinafter mentioned, provided that at the time of his death he resided or carried on business in *Scotland*, and held at that time heritable or moveable estates in *Scotland*: But no such Sequestration shall be awarded until the expiration of Six Months from the debtor's death, unless he shall have granted a mandate to apply for Sequestration, or was at the time of his death Notour Bankrupt, or unless his successors shall concur in the petition, or renounce the succession, in which several cases Sequestration shall forthwith be awarded.

25.
Sequestration
of Estates of
a deceased
debtor.

30 And be it Enacted, That any One Creditor whose debt amounts to not less than Fifty Pounds, or any Two Creditors whose debts together amount to not less than Seventy Pounds, or any Three or more Creditors whose debts together amount to One hundred Pounds or upwards, (provided the debts are not contingent,) may petition for sequestration of the estates of any person or company within the descriptions aforesaid, provided that the petition be presented within Four Months after the date of the debtor being rendered Notour Bankrupt; and such Creditors respectively may concur in a petition by a Debtor for sequestration.

26.
Creditors
entitled to
petition for
Sequestrati

40 And be it Enacted, That to entitle any person residing within the Kingdom of *Great Britain* and *Ireland* to petition, or concur in a petition, for Sequestration, or to vote or act as a creditor, or to be ranked on the estate and draw a dividend therefrom, it shall be necessary for him to produce, either with the petition for Sequestration

27.
CLAUSE (U.)
Proof of
Debts.

tion, or at a general meeting of the creditors, or in the hands of the trustees, an affidavit, taken before a Judge ordinary, Justice of the Peace, or a Commissioner of bankruptcy, to the verity of the debt claimed by him against the bankrupt estate; and the creditor shall in such oath state what other parties besides the bankrupt he holds 5 liable for the debt, and specify any security he holds over the estate of the bankrupt himself, or of the other obligants, and depone that he holds no other obligants bound or securities than what are so specified; and where the creditor holds no other party than the bankrupt bound for the debt, or any part thereof, and no security 10 therefor, he shall depone to that effect; and the creditor shall, along with his oath, produce such accounts, vouchers or grounds of debt as shall be necessary to prove the same, reserving nevertheless to any creditor, who from accidental causes may not be in possession of the necessary vouchers or grounds of debt previously to the 15 period hereinafter assigned for lodging claims, with a view to a share of the first distribution of the estate, to lodge with the trustee an affidavit in the terms before directed, and further stating the cause why the documents of debt are not produced, and in whose hands, to the best of the deponent's knowledge, the same may be, 20 which affidavit shall give the creditor a right to have a dividend set apart till reasonable time be afforded for production of the documents, or his otherwise establishing his debt according to law: Provided always, That in order to exercise his right to vote or otherwise to act as a creditor, or to draw a dividend, he shall, if he 25 hold a security or collateral obligation, be bound to qualify his claim as hereinafter provided for in these cases respectively.

28.
 CLAUSE (X.)
 Creditors out
 of Great
 Britain and
 Ireland;

or incapable
 of an oath.

And be it Enacted, That where any creditor shall be out of the Kingdom of *Great Britain* and *Ireland*, it shall be sufficient either that he make an affidavit to his debt in the above form before a 30 magistrate of the country where he resides, he being certified to be a magistrate by a notary public, *British* Minister or *British* Consul, or for his known agent or mandatory in *Great Britain* or *Ireland* to make an oath of credulity to the same effect; and where any creditor shall be under age, or incapable to make oath, in such 35 cases an oath of credulity by the agent, factor, guardian or manager, legally authorized to act for the claimant, shall be sufficient.

29.
 Mode of ap-
 plying for Se-
 questration.

And be it Enacted, That the application for Sequestration shall be by petition to the Lord Ordinary, signed by the petitioner or his counsel or agent, and with such petition the petitioning or con- 40 curring Creditor shall produce an oath to the effect above specified, and also the written evidence and documents, as hereinbefore provided; and where the petition is presented without the consent of the debtor, the petitioning creditor shall in such oath, or in a separate

separate oath, swear that he believes the debtor to be within one or other of the descriptions liable to sequestration, and specify which description.

30.
On Petition by the Debtor, Sequestration to be awarded.

Order to elect Interim Factor, Trustee and Commissioners.

Remit to Sheriff.

Protection to Debtor.

And be it Enacted, That where such petition is presented by the Debtor, with concurrence as aforesaid, the Lord Ordinary shall forthwith pronounce a deliverance awarding Sequestration of the whole estates then belonging or which before the Debtor be discharged shall come to him, and he shall declare the said estates to belong to the Creditors for the purposes of this Act, and appoint a general meeting of the Creditors to be held at a specified hour on a certain day, being not more than Two Weeks from the date of the deliverance (or as much earlier as circumstances will permit), at a convenient place within the county where the Debtor carries on or last carried on his business, failing which, at a convenient place within the county of his place of residence or last residence, to elect an Interim Factor, if the Creditors think fit to appoint one, and failing their doing so, the Sheriff Clerk of the county shall act as interim factor; and the Lord Ordinary shall also by the same deliverance make an order upon the Creditors to meet at a specified hour on another day, being not less than Four Weeks and not more than Six Weeks from the date of the deliverance, at the place fixed for the election of Interim Factor, to elect a Trustee and Commissioners, and do the other acts hereinafter provided; and the Lord Ordinary shall also remit to the Sheriff of the county where the meeting is to be held to proceed in manner hereinafter mentioned; but notwithstanding the said remit, the Sequestration shall be held to be in the Court of Session until finally closed, and shall not fall asleep, although no step shall be taken therein for a Year and Day: And the Lord Ordinary shall by the same deliverance, unless cause be shown to the contrary, grant a protection to the Debtor, to continue (unless recalled in manner hereinafter provided) until he shall apply for a discharge, and until such application be disposed of; and it shall be competent to the Lord Ordinary, on special application made, to grant a warrant for liberating the Debtor if in prison, after such intimation to the incarcerating Creditor or his known Agent, and on such *induciae* as he shall deem to be just; and after hearing any objection to the granting of such warrant of liberation; and a copy, certified by the Bill Chamber Clerk of the interlocutor awarding Sequestration and granting protection or liberation, shall liberate or protect the Debtor from arrest or imprisonment in *Great Britain* and *Ireland*, and His Majesty's other dominions, for civil debt contracted previous to the date of Sequestration; but such protection shall not be of any effect against the execution of a warrant of arrest *in meditatione fugæ*.

31.
If Sequestra-
tion applied
for without
the Debtor's
consent,
Warrant to
cite, &c. to
be granted.

And be it Enacted, That if the petition for Sequestration be pre-
sented without the consent of the Debtor, the Lord Ordinary shall
grant a warrant to cite him to appear within a specified period if he
be within *Scotland*, of not less than Six Days nor more than Twenty-
one Days from the date of citation, by delivering to him personally, 5
or by leaving at his dwelling-house or place of business, a copy of the
petition and warrant, and if the Debtor be furth of *Scotland*, to cite
him to appear also within a specified period, being not less than
Thirty Days nor more than Forty Days from the said date, by leaving
a copy at the dwelling-house or place of business last occupied by 10
him, and also at the Office of Edictal Citations, to show cause
why Sequestration should not be awarded: And the Lord Ordinary
shall, if desired, grant diligence to recover evidence of the Notour
Bankruptcy, and of the Debtor being within the description alleged :
And if, upon the expiration of the time specified in the warrant, the 15
Debtor do not appear by himself, counsel or agent, or if appearing he
do not instantly pay or produce evidence of the payment of the debt in
respect whereof he was made Notour Bankrupt, and of the debt due
to the petitioning Creditor, and of the debt due to any other Creditor
who shall appear and concur in the petition, or do not show cause 20
why Sequestration should not be awarded, the Lord Ordinary, on
production of evidence of the citation and of the Notour Bankruptcy,
shall award Sequestration, appoint a meeting to be held for the
election of an Interim Factor, Trustee and Commissioners, remit
to the Sheriff, and grant a personal protection, all to the effect and in 25
the manner above specified

32.
Sequestration
of the Estates
of deceased
Debtor.

And be it Enacted, That where a petition is presented for Seques-
tration of the estates of a Debtor who is dead, the petitioning Creditor
shall produce an oath, and written evidence, or account as above
provided, and shall specify the place where the Debtor resided 30
and carried on business in *Scotland*, and whether at the time of
his death he was owner of heritable or moveable estate in *Scot-*
land; and the Lord Ordinary shall grant warrant to cite the
debtor's next of kin, heir, apparent heir, or other successor, (as
the case may be,) personally or at his dwelling-place if known 35
and within *Scotland*, or if not known, or if furth of *Scotland*,
at the Office of Edictal Citations, and in both of these last
cases also at the house where the Debtor had at the time of his
death his residence, or at his place of business in *Scotland*, on
induciae of Twenty-one Days from the date of citation, to show 40
cause why Sequestration should not be awarded, and they shall
be cited accordingly; and if on the expiration of the said Twenty-
one Days, and production of an execution of citation, they fail
to appear, the Lord Ordinary shall order intimation of such warrant
to be published in the *Edinburgh Gazette*, requiring the said
next

next of kin, heir, apparent heir, or other successor (as the case may be), to show cause as aforesaid within a further space of Twenty-one Days from the date of the publication of the said intimation; and if they do not then appear, or if appearing, no cause to the contrary shall be shown by them or any party interested, the Lord Ordinary shall award Sequestration, and issue the other orders, as hereinabove provided in the case of any other Debtor, in so far as circumstances will permit; and he shall ordain any successor who has made up a title to, or is in possession of the estate of the Debtor, to transfer it, so far as liable for the debts of the deceased, to the Trustee to be appointed as hereinafter directed; and if desired, the Lord Ordinary shall grant diligence to recover evidence to show that the Debtor was subject to the laws of *Scotland*, and held heritable or moveable estates as hereinabove provided: And if Sequestration shall be awarded, such Sequestration shall proceed in the same way as in other cases, with the differences necessarily arising from the death of the Debtor: And the petitioning Creditor may at any time after the execution of the citation, and before Sequestration is awarded, apply to the Lord Ordinary to appoint a Judicial Factor to administer the estate in the mean time, and if no cause be shown to the contrary, the Lord Ordinary may appoint a Factor accordingly: And it shall not be competent for any Creditor, after the date of the first deliverance on the petition for Sequestration, to be confirmed Executor Creditor, or raise or insist in any adjudication or diligence against the estate of the Debtor.

And be it Enacted, That a petition for the Sequestration of the estates of any Company in *Scotland* may be presented by the Company itself, (whether it be engaged in any of the said occupations or not,) provided one or more Creditors qualified as aforesaid concur: And where the Company does not so apply, the petition may be presented by one or more Creditors qualified as aforesaid, provided the Company be Notour Bankrupt, and is or has been engaged in any of the occupations hereinbefore set forth, and has carried on business in *Scotland*, and either then has or has had a place of business in *Scotland* within a Year before the date of presenting the petition; and where the Company does not petition or concur in the application, the petitioning Creditor shall in his affidavit swear, as in the case of an individual, that the Company is within one or other of the descriptions liable to Sequestration; and the Lord Ordinary shall, where the petition is presented by the Company, forthwith award Sequestration; and where it is presented without their consent, he shall grant warrant to cite, and in either case he shall issue the other orders, all in the same way and to the same effect as in the case of individual Debtors;

33.
Sequestration
of the Estates
of a Company.

and it shall be a sufficient citation that a copy of the petition and warrant be left at the place where the business of the Company is or was last carried on, provided a partner, or a clerk, or a servant of the Company be there, and failing thereof, at the dwelling-house of any of the acting partners, and if the house of such partner cannot be found, by leaving the copy at the Office of Edictal Citations; and Sequestration may be awarded either of the estates of the Company and partners jointly, or separately, of their respective estates; and a copy of the deliverance certified as aforesaid shall protect each of the partners named therein, to the same effect as is hereinbefore provided for the protection of individual Debtors.

34.
Bill Chamber
Clerk to be
Clerk of Se-
questrations;
and Duties.

Register of
Sequestra-
tions.

And be it Enacted, That the Clerk of the Bill Chamber in the Court of Session shall be Clerk to Sequestrations under this Act, and he shall, so soon as a petition is presented for Sequestration, mark thereon (according to the desire of the petitioner) the Division of the Court to which the petitioner wishes the Sequestration to be appropriated, and to that Division the Sequestration shall be appropriated accordingly; and he shall keep a book, intituled, "The Register of Sequestrations," in the form of Schedule (D.) hereunto annexed, which book shall be patent to all concerned; and he shall forthwith therein enter the date of the first deliverance on every petition for Sequestration, and the name and designation of the Debtor, and of the petitioning or concurring Creditor; the place and county of the Debtor's residence or business; the date of awarding Sequestration; the place and time appointed for the election of the Interim Factor and Trustee; the name and designation of the Interim Factor and of the Trustee; and the time fixed for lodging claims in order to obtain payment of the first dividend.

35.
Abbreviate to
be recorded in
Register of
Inhibitions.

Notice of Se-
questration
to be pub-
lished.

And be it Enacted, That the party applying for Sequestration shall, before the expiration of the Second lawful day after the first deliverance, present an Abbreviate of the petition and deliverance, signed by him or his agent, in the form of Schedule (E.) hereunto annexed, to the Keeper of the General Register of Inhibitions at *Edinburgh*, who shall forthwith therein record the said Abbreviate; and the Abbreviate so recorded shall have the effect of an Inhibition, and of a citation in an adjudication of the estate of the Debtor, at the instance of the Creditors afterwards ranked on the estate; and the party so applying shall, within Four Days from the date of the interlocutor awarding Sequestration, insert a Notice, in the form of Schedule (F.) hereunto annexed, in the *Edinburgh Gazette*.

36.
Interlocutor
awarding Se-
questration

And be it Enacted, That the interlocutor awarding Sequestration shall not be subject to review; but any Debtor whose estate has been sequestrated

sequestrated without his consent, or the successor of any deceased Debtor whose estate has been sequestrated as aforesaid, or any Creditor (whether the Sequestration has been awarded with or without the consent of the Debtor or his successor) may within Forty Days after the date of the interlocutor awarding Sequestration, present a petition to the Lord Ordinary, setting forth the grounds for recall, and praying for recall; and where Sequestration has been awarded of the estate of a deceased Debtor, when his successor was edictally cited, it shall be competent to such successor or any person having a lawful interest, to apply by petition as aforesaid, at any time before the publication of the advertisement, for payment of the first dividend hereinafter mentioned: And the Lord Ordinary shall in these several cases order a copy of the petition and of his deliverance to be served on the petitioning Creditor, or (as the case may be) on the petitioning Debtor and the concurring Creditor, or on their respective known agents, and on the Interim Factor or Trustee, if appointed; and he shall require them to answer within a certain short time, and order a notice of the presenting of the petition to be published in the *Edinburgh Gazette*; and on the expiration of the said period he shall proceed to pronounce judgment; and if he shall recall the Sequestration, the recall shall be entered by the Clerk in the Register of Sequestrations, and by the Keeper of Inhibitions on the margin of the Record of Inhibitions.

not liable to review, but may be recalled.

And be it Enacted, That no petition for recall of the Sequestration shall be competent after the expiration of the said Forty Days, or after the said advertisement for payment of the first dividend respectively: Provided, That Nine-tenths in number and value of the Creditors ranked on the estate as herein directed may apply at any time for recal by petition to the Lord Ordinary, who shall order notice of his deliverance to be published in the *Edinburgh Gazette*, requiring all concerned to appear within Fourteen Days from the date of publication in the Gazette, and show cause why the Sequestration should not be recalled; and on expiration of the said time he shall proceed to pronounce judgment.

37.
No Recal competent after certain times, unless Nine-tenths of Creditors apply.

And be it Enacted, That if a Creditor who has petitioned for Sequestration, or concurred in such petition, or who has petitioned for recal of a Sequestration, or appeared to oppose a petition for Sequestration or recal, or lodged an objection, shall withdraw, or become bankrupt, or die, any other Creditor may be sisted in his place, and follow out the proceedings.

38.
Creditors may be sisted in place of others.

And be it Enacted, That in all questions under this Act the Sequestration shall be held to commence and take effect on the

39.
Date of Sequestration.

day when the first deliverance, of whatever nature it may be, shall be signed by the Lord Ordinary; and the said day shall be held to be the date of the Sequestration, although the Sequestration be not actually awarded till a later date.

40.
Petitioning,
concurring or
claiming to
interrupt
Prescription,
and bar
Statute of
Limitations.

And be it Enacted; That the presenting of, or concurring in a petition for Sequestration, or the lodging a claim in terms of this Act, shall interrupt prescription; and bar the effect of any statute of limitations in *England* or *Ireland* or His Majesty's dominions; and although the Sequestration shall be recalled, such interruption or bar shall not thereby be affected.

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41.
Certified
Copy of Peti-
tion, &c. to be
transmitted
to the Sheriff
Clerk.

And be it Enacted, That on the said remit being made to the Sheriff, a copy of the petition for Sequestration, and of the deliverance awarding Sequestration, certified by the Clerk of the Bill Chamber, shall, with the productions, be transmitted by the petitioner to the Sheriff Clerk of the county; or ward, or place where the meeting for election of Interim Factor is directed to be held; and the Sheriff shall have as full power and jurisdiction as hitherto possessed by the Court of Session (subject always to review) to determine all questions in the Sequestration, under the exception of such matters as involve questions of heritable title; and the Sheriff Clerk and Officers of Court shall have power to act in their respective offices under this Act; and the Sheriff Clerk shall keep a register of Sequestrations transmitted to him in terms of the said Schedule (D.); and extracts of the deliverances of the Sheriff, as well as all extracts of any deliverance under this Act, shall be evidence in all courts and places within *Great Britain* and *Ireland* and His Majesty's dominions, and shall be sufficient warrants for all diligence and execution by law competent.

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Jurisdiction
of Sheriff
Clerk to keep
Register of
Sequestra-
tions.

Extracts to be
Evidence.

42.
Creditors not
to be liable
for Expenses
except in
certain cases.

And be it Enacted, That no person shall, by claiming as a Creditor in a Sequestration, or appearing at a meeting under this Act, be personally liable to any claim by the Interim Factor, Trustee, or agent or other person employed in the business of the estate, for money advanced or expense incurred, or remuneration in the affairs of the estate, or in any proceeding relative to the estate, reserving to the Interim Factor, Trustee, agent or other person employed, right to payment out of the estate, or from such person who may be otherwise liable for the same, and to such agent or other person employed by the Interim Factor or Trustee, right to payment from his employer: Provided always, That the Interim Factor or Trustee may intimate to the Creditors at any of the meetings herein appointed, or at any meeting called for the purpose by advertisement in the *Edinburgh Gazette*, that he will not carry on the

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the

the Sequestration, or such proceeding, unless funds be furnished, by the Creditors: And where any person has advanced money, or incurred expense, or become entitled to remuneration, or rendered himself liable for the same, in following out any proceeding relative to the estate, no Creditor shall be entitled to any benefit resulting from such proceeding, until such person be paid or relieved.

And be it Enacted, That every Creditor who claims to vote in the election of Interim Factor or Trustee or Commissioners, shall produce at the meeting for election an oath and documents as hereinbefore provided.

43.
Creditors
claiming to
vote, to pro-
duce Oaths
and Vouchers.

And be it Enacted, That the mandatory of any person entitled to vote as a Creditor may vote in the absence of such Creditor, provided he exhibit a written mandate; and the vote of such mandatory shall, within the limits of his mandate, be held as the vote of the Creditor himself.

44.
Mandararies
for Creditors
may vote.

And be it Enacted, That no person who shall acquire, after the date of the Sequestration, otherwise than by succession or marriage, a debt due by the Bankrupt, shall be entitled to vote in the election of Interim Factor or Trustee or Commissioners, but in all other respects such person may be reckoned as a Creditor.

45.
Persons ac-
quiring Debts
after Seques-
tration not to
vote.

And be it Enacted, That if a Creditor claim for a debt which is not payable till after the date of the Sequestration, he shall in his oath deduct the legal interest thereon from the date of the Sequestration to the term of payment, and specify the balance; and if he claim for a debt which, by the usage of trade, is liable to a discount of more than legal interest, he shall in his oath state the amount of such discount, and deduct it from the price, and specify the balance; provided that if the same be not payable at the date of the Sequestration, he shall also deduct the legal interest as aforesaid, and specify the balance; and if a Creditor claim for a debt with bygone interest, he may in his oath accumulate the interest as at the date of the Sequestration, and he shall specify the amount, but he shall not be entitled to claim interest on such accumulated sum: And the Creditor in the said several cases shall be entitled to vote, and to draw dividends for the said balance, or accumulated sum respectively: Provided that, if there be any residue of the estate after discharging the debts ranked, he shall be entitled to draw out of such residue any interest lawfully due on such future debt, if the term of payment have arrived after the date of the Sequestration, or (as the case may be) any sum so deducted, if lawfully exigible, or the interest on the said accumulated sum, so far as due and not otherwise paid.

46.
Creditors on
Debts future
or liable to,
discount to
make De-
ductions and
specify Ba-
lance.

Creditors may
accumulate
Arrears of
Interest.

47.
Valuation of
Securities.

And be it Enacted, That if a Creditor hold a security or lien for his debt over the estate of the Bankrupt, he shall, before voting or acting as a Creditor or assenting to or dissenting from the Bankrupt's composition or discharge, put, on oath, a value on such security, and deduct such value from his debt, and specify the balance : And if the estate be sold and the price realized, he shall in his oath deduct what he has received or shall be entitled to receive of the free proceeds thereof from his debt, and specify the balance ; and he shall be entitled to vote and act as a Creditor, and assent or dissent in respect of such balance and no more : 5
Provided, that in questions as to the disposal or management of the estate over which his security exists, he shall be entitled to vote in respect of the whole amount of his debt : Provided further, that he shall be entitled to rank and draw a dividend, subject only to deduction of payments or preferable securities, or liens on or out of 15
the estate of the bankrupt.

48.
Valuation of
Obligants
liable in
relief to the
Bankrupt.

And be it Enacted, That if a Creditor has an obligant bound with, but liable in relief to the Bankrupt, in whole or in part ; or holds any security from such obligant, he shall, before voting or acting as a Creditor, or assenting or dissenting as before, put, on oath, 20
a value on the obligation of such obligant, and on such security, to the extent to which the Bankrupt is entitled to relief, and deduct such value from his debt, and specify the balance ; and he shall be entitled to vote and act, or assent or dissent only in respect of such balance and no more ; and if required by the Trustee, he shall discuss 25
such obligant at the expense of the estate : And if a Creditor has an obligant bound to him for the debt, but who is not liable to relieve the Bankrupt, or if he hold a security from such obligant, he shall be entitled to vote and draw dividends for the full amount of his debt undiminished by his claim on the obligant, or by such security, 30
or by any payment received from such obligant or from such security subsequent to the date of the Sequestration ; provided that the Creditor shall not in any case draw more than the full amount of his debt, with interest to the date of payment.

49.
Right of
Trustee to
Assignment
to Securities.

And be it Enacted, That it shall be competent to the Trustee, 35
with consent of the Commissioners, within Four Months after an oath specifying the value of a security has been lodged and made use of in voting at any meeting, or in assenting to or dissenting from the Bankrupt's discharge, to require from the Creditor a conveyance or assignation to such security on payment of 40
the specified value, with Twenty per centum in addition to such value ; and the Creditor shall be bound to grant such conveyance or assignation at the expense of the Trustee : Provided, that

Provision for
change on
values of
Securities.

that where a Creditor has put a value on such security, he may, after expiration of the said Four Months; without a requisition from the Trustee, correct such valuation by a new oath, and deduct such new value from his debt, and state the balance, and he may
 5 vote and act as a Creditor, and assent to or dissent from the composition or discharge in respect of such balance, if so entitled under his original claim; but it shall be competent for the Trustee forthwith to require, and the Creditor shall be bound to grant a conveyance or assignation as above provided, on payment of the new
 10 value.

And be it Enacted, That a Creditor on the estate of a company shall not be bound to value and deduct from his claim on the company's estate the value which he may be entitled to draw from the estates of the partners; but if the estate on which the Creditor claims
 15 be that of a partner of a company, and the debt be a company debt, the Creditor shall in his oath put a value on his claim against the company, and deduct such value and all payments received before the date of the Sequestration from his debt, and specify the balance; and he shall be entitled to vote, and to draw dividends
 20 in respect of the said balance, and no more: And the Trustee, with consent of the Commissioners, shall have the option of taking an assignation to the Creditor's claim on the Company, on payment of the value so estimated, before the Creditor draw any dividend on the balance.

50.
Valuation of
claims on
Company, and
on a Partner's
Estate.

And be it Enacted, That where a Creditor claims in respect of a debt, the amount or payment of which depends upon a contingency which has not happened at the date of the claim, such Creditor shall not be entitled to vote, nor to draw a dividend in respect of such contingent debt; but such Creditor may apply to
 30 the Sheriff, if the Trustee has not been elected, or if elected, to the Trustee, to put a value on such debt, and the Sheriff or Trustee (as the case may be) shall put a value thereon; and on such value being fixed, such Creditor may vote in respect of such value, and be counted in number, if such value exceed TwentyPounds, and draw dividends:
 35 Provided that if such contingency happen before the value be fixed, such Creditor may vote and draw dividends in respect of the amount of the debt, but the same shall not disturb any former dividends allotted to other Creditors: Provided always, That where such application is made to the Sheriff, notice thereof shall be given (if
 40 he be elected) to the Interim Factor, and if not elected, to the Bankrupt and petitioning or concurring Creditor; and any Creditor who has claimed on the estate may appeal and be heard thereon, and the judgment of the Sheriff or Trustee shall be subject to review.

51.
Contingent
Creditors.

And be it Enacted, That where a claim is made by any Creditor of the Bankrupt in respect of an annuity, he may, if the Trustee has

52.
Annuity Cre-
ditors.

not been elected, apply to the Sheriff, or if elected, to the Trustee, to put a value on such annuity; and the Sheriff or Trustee (as the case may be), shall put a value on the annuity, regard being had to the original price given for the said annuity, and deducting from such price the diminution in the value of the annuity caused by the lapse of time from the date of the annuity to the date of the Sequestration; and such Creditor shall be entitled to vote and draw dividends in respect of such value, and no more: Provided always, That where such application is made to the Sheriff, notice thereof shall be given (if elected) to the Interim Factor, and if not elected, to the Bankrupt and the petitioning or concurring Creditor; and any Creditor who has claimed on the estate may appear and be heard thereon; and the judgment of the Sheriff or Trustee shall be subject to review.

53.
Claiming or acting in the Sequestration not to discharge Co-obligants.

And be it Enacted, That where a Creditor has an obligant bound to him along with the Bankrupt for the whole or part of the debt, such obligant shall not be freed from his liability for such debt in respect of any vote or dividend drawn by the Creditor under this Act, or of his assenting to the discharge of the Bankrupt, or to any composition proposed by him; but such obligant may require and obtain at his own expense from such Creditor an assignation to the debt on payment of the amount thereof, and in virtue thereof enter a claim on the said estate, and vote, and draw dividends, if otherwise lawfully entitled to do so: And where the value of an annuity has been fixed in manner hereinbefore provided, any obligant bound for payment thereof along with the Bankrupt shall be liable only for the value so fixed; and on making payment of such value to the Creditor, he shall be discharged of all liability in respect of his obligation, and, on obtaining an assignation as aforesaid, he may enter a claim for the value so paid to the effect aforesaid.

Provision as to Cautioner for Annuities.

54.
Oath not to supersede legal Evidence.

And be it Enacted, That in no case shall oaths of verity or credulity supersede production of legal evidence where required in any judicial discussion before the Court of Session, the Lord Ordinary, the Sheriff, or the Trustee.

55.
Rule as to Majorities.

And be it Enacted, That all questions at any meeting of Creditors shall be determined by the majority in value of those present and entitled to vote, unless in the cases herein otherwise provided for; and where, for the purpose of voting, the Creditors are required to be counted in number, no Creditor whose debt is under Twenty Pounds shall be reckoned in number, but his debt shall be computed in value.

56.
Proceedings at Meetings for election of Interim Factor or Trustee.

And be it Enacted, That Creditors or their mandataries qualified as aforesaid shall assemble at the times and places fixed respectively for the election of Interim Factor, and for election of the Trustee, with power to adjourn on these or any other occasions for such reasonable

reasonable time as may seem fit ; and if Two or more Creditors shall give notice to the Sheriff or Sheriff Substitute of the county, such Sheriff or Sheriff Substitute (or in case of necessary absence, a Sheriff Substitute authorized by the Sheriff to act under this Act) shall
 5 with the Sheriff Clerk or his Depute attend the meeting; and the Sheriff or Sheriff Substitute shall preside thereat, and the Sheriff Clerk shall mark the oaths and productions, and enter in the minutes the names and designations of the creditors, or the mandataries of Creditors, and the amount for which they claim, and any other
 10 circumstances which the presiding Sheriff shall judge fit; which minutes the Sheriff or his Substitute shall sign; and the Clerk shall retain the affidavits of the several claimants till the election shall be determined, when he shall deliver the same to the Interim Factor or Trustee (as the case may be); and where no such requisition is made for
 15 the attendance of the Sheriff or Substitute, the Creditors shall elect a Preses and Clerk, and the Preses shall mark the oaths and productions and sign the minutes, and the Clerk shall write the minutes: And the Creditors or their mandataries, who have produced their oaths and documents and been entered in the minutes, shall elect a
 20 fit person to be Interim Factor, or to be Trustee (as the case may be), or two or more Trustees to act in succession in case of non-acceptance, death, removal or disqualification; and in the case of the Sequestration of the estates of a company and of the partners, one Interim Factor and (as the case may be) one Trustee for all the
 25 estates, or separate Interim Factors or (as the case may be) separate Trustees on the estates of the company, and on the estates of all or each of the individual partners and trustees in succession as aforesaid: And it shall not be lawful to elect as Interim Factor or Trustee the Bankrupt, or any person conjunct and confident with the
 30 Bankrupt, or who holds an interest opposed to the general interest of the Creditors, or whose residence is not within the jurisdiction of the Court of Session.

And be it Enacted, That if at the election either of Interim Factor or Trustee (as the case may be), no objections shall be stated
 35 to the votes or candidates, the Sheriff or Sheriff Substitute present at the meeting shall declare the person elected to be Interim Factor or Trustee (as the case may be), and subscribe a deliverance to that effect; and if any objection be made to the votes or candidates, such objections may, if the Sheriff or ordinary Sheriff Substitute be
 40 present, be forthwith disposed of by him, or he may make a vizandum, and he shall, if necessary, make a short note of the objections and of the answers, on which he shall within Four Days after the meeting hear parties vivâ voce, and give his decision on the election with summary despatch, and declare the person to be Interim Factor, and he shall also declare the person (as the case may be) or persons
 45 trustee or trustees in succession, whom he shall find to have been
 389. c 4 duly

57.
 Procedure
 where no
 Objections
 made, and
 where they
 are made.

duly elected: Provided, That where the officiating Sheriff is a Sheriff Substitute appointed to act in the absence of the Sheriff or of the ordinary Sheriff Substitute of the county, or is a Preses elected by the Creditors, such Substitute or Preses, whether there be any competition or not, shall forthwith report the proceedings to the Sheriff or ordinary Substitute, and the affidavits of the several claimants shall, if the Sheriff Clerk or his Depute be present, remain in his possession, or, if he be not present, shall be transmitted to the Sheriff Clerk by the Preses, to be retained by him till the Interim Factor or Trustee (as the case may be) shall be finally appointed, when he shall deliver the same to such Interim Factor or Trustee; but the said affidavits shall be subject to exhibition in the hands of the Sheriff Clerk to any party interested: And if there be no competition, the Sheriff or ordinary Substitute shall declare the person elected to be Interim Factor or Trustee (as the case may be); and if there be competition, the Sheriff or ordinary Substitute shall forthwith hear parties *vivâ voce*, and give his decision and declare in manner hereinbefore provided; and the judgment of the Sheriff or Substitute, declaring the person elected to be Interim Factor, shall not be subject to review in any court or in any manner whatever.

58.
Amount of
Caution to be
fixed, and
Bond to be
lodged.

And be it Enacted, That the Creditors shall at the said meetings respectively fix a sum for which the Interim Factor shall find security, and for which the Trustee to be confirmed shall also find security, for their respective intromissions and performance of the duties and rules hereby enacted, and shall also decide on the sufficiency of the caution offered by the respective competitors; and the Interim Factor and the person declared to be Trustee shall respectively forthwith lodge with the Sheriff Clerk a Bond of Caution, signed by the Interim Factor and his Cautioner, and by the Trustee and his Cautioner (as the case may be) in the form of the Schedule (G.) hereunto annexed, which bond shall be furnished to him by the Sheriff Clerk; and on such Bond being lodged, the Sheriff shall confirm the election of the person chosen Interim Factor or Trustee (as the case may be); and the Sheriff Clerk shall issue an Act and Warrant in the form of Schedule (H.) hereunto annexed to the Interim Factor; and in the case of the election of Trustee, an Act and Warrant in the form of Schedule (I.) hereunto annexed to the Trustee; and the Interim Factor or Trustee (as the case may be) shall immediately transmit a copy of the said Act and Warrant to the Bill Chamber Clerk, who shall thereupon make an entry of the name and designation of the Interim Factor and of the Trustee (as the case may be) in the Register of Sequestrations; and the said Act and Warrant shall be an effectual title to the Interim Factor and Trustee respectively to perform the duties hereby imposed on them.

Act and War-
rant to be
issued.

59.
Duties of
Interim
Factor.

And be it Enacted, That the Interim Factor shall, immediately on receiving

receiving the Act and Warrant of his appointment, take such steps as may be necessary for the preservation of the estate until the meeting of the Creditors for the election of Trustee; and he shall take possession of and recover the Bankrupt's estate, and make an inventory thereof, and of his title-deeds, books, bills, vouchers, and all other documents whatsoever, so far as then known, and he shall transmit a copy of such inventory to the Bill Chamber Clerk: And the Bankrupt shall with all despatch make up and deliver to the Interim Factor a state of his affairs, specifying his whole estate, wherever situated, the estates in expectancy or to which he may have an eventual right, the names of his Creditors and Debtors, and the debts due by and to him, and a rental of his heritable subjects; which state and rental shall be subscribed by the Bankrupt and preserved by the Interim Factor, and abstracts thereof shall be ingrossed in a Sederunt Book to be kept by him; and the Bankrupt shall give all information and assistance necessary to enable the Interim Factor to execute his duty; and if the Bankrupt fail to do so, or to grant any deed which may be requisite for the recovery of the estate, the Interim Factor may apply to the Sheriff to compel him to give such information and assistance, and to grant such deed, under the penalty of incarceration and of forfeiture of the benefits of this Act; and, unless cause be shown to the contrary, the Sheriff shall issue a warrant accordingly.

Bankrupt to make up state of affairs

And be it Enacted, That the Interim Factor shall lodge in Bank all monies received by him as hereinafter directed, and he shall pay to the petitioning or concurring Creditor, out of the first funds which shall come into his hands, the expense incurred by him in obtaining the Sequestration, rendering the Debtor Notour Bankrupt, and doing the other acts hereby required prior to the election of the Interim Factor, as the same shall be taxed; and if the funds received by the Interim Factor shall not be sufficient, such expenses shall be paid by the Trustee, when he shall be appointed, out of the first of the funds which shall come into his hands.

60.
Interim Factor to lodge Money in Bank, &c.

And be it Enacted, That at the time and place appointed for the said meeting to elect a Trustee, the Interim Factor shall exhibit the Sederunt Book containing the said inventory, state and rental, and also an account of his intromissions and disbursements, and if required by any Creditor, the books of the Bankrupt, with the title-deeds, bills, vouchers and other documents, conform to inventory; and if the meeting be satisfied that the Interim Factor has duly lodged the money and performed his duties, they shall fix his remuneration, and he shall receive payment thereof, and of all advances made by him out of the funds in his hands: And if the Interim Factor be dissatisfied with the sums allowed, the same shall be determined by the Sheriff, whose judgment shall not be reviewable by any

61.
At meeting to elect Trustees, Interim Factor to exhibit States, and be remunerated.

court whatever; but the Interim Factor shall not be entitled, in respect of non-payment thereof or any other ground, to retain any part of the estate, and he shall be bound forthwith to deliver the estate, books, state, rental, and all other documents to the Trustee, who shall, if sufficient funds have not been realized by the Interim Factor, pay the said remuneration and advances out of the first money which shall come into his hands. 5

62.

Appeal
against Elec-
tion of Trus-
tee.

And be it Enacted, That any Creditor or Competitor giving notice in writing to the Sheriff Clerk, within Two Days after the date of the Sheriff's Interlocutor declaring the election of the Trustee, of his intention to appeal to the Inner House of the Court of Session against such Interlocutor, shall be entitled so to appeal, provided that a Bond of Caution for the Competitor, signed by a Cautioner approved of at the said meeting, shall along with such notice be lodged with the Sheriff Clerk, and a written reclaiming note against such Interlocutor be lodged with and marked by the Clerk of the Bill Chamber within Fourteen Days from the date of such Interlocutor; and on a copy of such reclaiming note, certified by the Bill Chamber Clerk, being delivered to the Sheriff Clerk, he shall forthwith transmit to the Bill Chamber Clerk the minutes of election, together with such of the proceedings as may be required; and the Sheriff shall report the grounds of his decision; and the Inner House shall thereupon hear parties *viva voce*, and decide which of the Competitors has been duly elected, or, if they see cause, order a new election, and appoint a time and place for that purpose; and if the appealing Competitor shall be preferred, the Inner House shall remit to the Sheriff to confirm him; and no part of the expense of such competition, either before the Sheriff or any other tribunal, shall be paid out of the estate, but the expenses may be ordered to be paid by the unsuccessful party to the successful party. 10 15 20 25 30

Expenses
how to be
paid.

63.

Appeal not to
stop Seques-
tration.

Interim Fac-
tor to con-
tinue to act.

And be it Enacted, That no appeal shall have the effect to stop the proceedings in the Sequestration, and the Interim Factor shall continue to act until a Trustee shall be finally confirmed; and if on a new election the appealing Competitor or other person shall be confirmed Trustee, an Act and Warrant shall be issued in his favour, and proceedings shall take place as aforesaid; and if the appealing Competitor or other person be elected, an appeal may be made in manner before provided; and if such appealing Competitor or other person shall be elected and confirmed, the Interim Factor shall deliver to such Trustee the estate of the Bankrupt, with the books, title deeds and other documents in his possession, and account to him for his intromissions; and the Creditors may at any meeting (which, if required, the Trustee shall call) make an allowance to the Interim Factor for his trouble during the period of his administration, 35 40

administration, subject to review in manner before provided; and the Trustee shall pay the sum so allowed, and the expenses incurred by the Interim Factor, out of the first of the funds.

Remuneration to Interim Factor.

And be it Enacted, That at the meeting for election of Trustee, the Creditors present, or their Mandataries, shall, after the election of the Trustee, elect Three Commissioners, who shall be either Creditors or Mandataries of Creditors (if there be so many who have claimed), and the same proceedings shall take place in regard to their election as is provided in regard to the election of Trustee, (except that they shall not be bound to find security), and the Sheriff shall decide who are the persons duly elected, and declare their election by a deliverance in the Sederunt Book, which shall entitle them to act without further authority; and a majority of them shall be a quorum: Provided that no person shall be eligible as a Commissioner who is disqualified to be a Trustee; and any Mandatary who has been elected a Commissioner shall lose that office upon written intimation being sent by his constituent to the Trustee that he has recalled the mandate, and the Trustee shall immediately record the intimation in the Sederunt Book; and the Trustee shall, in all cases where a Commissioner has declined or ceased to act, call a meeting of Creditors for the purpose of electing a new Commissioner, and such Commissioner shall be elected in manner hereinbefore provided.

64.
Election of Commissioners.

Disqualification.

And be it Enacted, That the Commissioners shall superintend the proceedings of the Trustee, give their advice and assistance relative to the management of the estate, examine the acts and intromissions of the Trustee, audit his accounts, decide as to paying or postponing payment of a dividend, fix his remuneration (subject to the control of general meetings), and may assemble at any time to ascertain the situation of the Bankrupt estate; and any One of them may make such report as he may think proper to a general meeting of the Creditors.

65.
Duties of Commissioners.

And be it Enacted, That at the said meeting for election of Trustees, or at the meeting held after the Bankrupt's examination, or at any other meeting called for the purpose, an offer of composition may be made to the Creditors in manner hereinafter provided; and the majority in number and value of the Creditors present may resolve that the personal protection of the Bankrupt ought to be recalled, and in such case the Trustee shall apply to the Sheriff, who shall withdraw the protection: Provided that the protection may be afterwards renewed by the Sheriff, on application made to him for the purpose by the Bankrupt or Trustee, with the consent of a majority of the Creditors in number and value given at any

66.
Offer of Composition may be made at this Meeting.

Recall of personal Protection.

meeting called for the purpose, and may also when so renewed be recalled.

67.
Allowance to
Bankrupt.

And be it Enacted, That at the said meeting for election of Trustee, or at the meeting held after the election of the Bankrupt, or at any meeting called for the purpose, Four-fifths in value of the Creditors present may authorize payment from time to time to the Bankrupt, or to the partners of a company (if the Sequestration be of a company estate), of such sum out of the estate as they shall think proper for subsistence until the period assigned for the second dividend, but such allowance shall not exceed Three Guineas per week to the Bankrupt, or to each individual partner of a company from the date of the Sequestration to the period aforesaid; and no allowance shall be given if the Bankrupt shall not have complied with the provisions of this Act. 5 10

68.
Entry of Confirmation in
Register of
Adjudications.

And be it Enacted, That the Trustee, within Twenty-one Days after his election is confirmed, shall present an abbreviate, signed by him or his agent, in the form of Schedule (K.) hereunto annexed to the Keeper of the Register of Abbreviates of Adjudications, who shall forthwith record the same, and the like proceeding shall take place within Twenty-one Days after the election of each new Trustee shall be confirmed. 15 20

69.
Trustee's
Duties.

Act and Warrant evidence
of Title.

And be it Enacted, That the Trustee shall recover the estate belonging to the Bankrupt wherever situated, and convert the same into money, with the advice of the Commissioners, if no special advice be given by the Creditors: And the Act and Warrant issued by the Sheriff Clerk to the Trustee shall be evidence of his right and title to the said estates for the purposes of this Act; and a copy of the said Act and Warrant, and of the Act and Warrant in favour of the Interim Factor, certified by the Bill Chamber Clerk, and authenticated by the seal of the Court of Session, shall be received in all courts and places within *England, Ireland* and His Majesty's other dominions, as evidence of the title, and shall entitle them respectively, or the Trustee or Interim Factor, to maintain all actions in the same way as the Bankrupt might have done if his estates had not been sequestrated. 25 30 35

70.
Money to be
lodged in
Bank.

And be it Enacted, That the Interim Factor and the Trustee respectively shall lodge all money which they may receive in such Bank as Four-fifths of the Creditors in number and value at any general meeting shall appoint, and failing such appointment in one or other of the following Banks; videlicet, the Bank of *Scotland*, the Royal Bank of *Scotland*, the Bank of the *British* Linen Company, the Commercial Bank of *Scotland*, or the National Bank 40

Bank of *Scotland* (provided that the Bank be not one in which the Interim Factor or Trustee, or any Commissioner, shall be an acting partner, manager, or cashier); and the same shall be lodged in the name of the Interim Factor or Trustee in his official character, at the highest rate of interest which can be procured for the same; and such Bank shall, once yearly at least, accumulate the interest with the principal sum, so that both shall thereafter bear interest as principal; and if the Bank fail to do so, such Bank shall be liable to account as if such money had been so accumulated.

And be it Enacted, That if the Interim Factor or Trustee shall keep in his hands more than Fifty Pounds of cash belonging to the estate for more than Ten Days, he shall pay a sum to the Creditors at the rate of Twenty per centum per annum on the excess of the said sum of Fifty Pounds, for such time as it shall be in his hand beyond the said Ten Days; and he shall be dismissed from his office upon petition to the Lord Ordinary by any Creditor, unless the Lord Ordinary shall be satisfied that the money has been kept from innocent causes.

71.
Twenty per cent. on Money not lodged.

And be it Enacted, That the Trustee, within Eight Days after the date of confirmation, shall apply to the Sheriff to name a day for the public examination of the Bankrupt; and the Sheriff shall issue his warrant for the Bankrupt to attend at a day and hour (being not sooner than Fourteen Days nor later than Twenty-one Days from the date of his warrant) within the Sheriff Court-house or other convenient place; and on the Sheriff granting such warrant, the Trustee shall publish an advertisement, in terms of Schedule (L.) hereunto annexed, in the *Edinburgh Gazette*, intimating to the Creditors his name and designation, his election as Trustee, the day, hour and place fixed for the examination of the Bankrupt, and also a specified day (being not sooner than Fourteen Days nor later than *Twenty-one* Days after the day appointed for the examination of the Bankrupt), and the hour and place for holding a meeting of the Creditors.

72.
Sheriff to appoint day to examine Bankrupt; and Meeting of Creditors to be published.

And be it Enacted, That it shall be competent for the Sheriff to whom the sequestration has been remitted to grant warrant to apprehend the Bankrupt, and bring him before the Sheriff for examination; and if the Bankrupt be incarcerated within any part of *Scotland*, the Sheriff may grant warrant to Magistrates and gaolers, on receiving a duplicate of such warrant, and an acknowledgment for the person of the Bankrupt, to deliver him to the officer presenting the same, and they shall do so accordingly; and the Sheriff may also grant warrant to bring the Bankrupt from the sanctuary, which warrant shall protect against arrest for debt while under examination.

73.
Warrant to apprehend Bankrupt for examination.

examination, and on the way to the place of examination, and in returning to the sanctuary; and such warrants shall be sufficient authority to messengers at arms, and to the officers of the said Sheriff, and to gaolers, within any part of *Scotland*, either within or beyond the territory of the said Sheriff, to apprehend, transmit, detain and incarcerate the Bankrupt until his examination is concluded, and also for his retransmission after examination to the gaol from which he was delivered up, and reincarceration therein; and if the Bankrupt cannot conveniently be brought from gaol or the sanctuary, or cannot be examined by the Sheriff there, or is by a lawful cause prevented from attending at the time and place appointed, or is abroad, the Sheriff may grant commission to take the examination; and where the Bankrupt cannot be examined, the Trustee may proceed with such other examinations as are hereinafter directed; and the Sheriff may, if he shall see cause, adjourn the examination of the Bankrupt to a subsequent day to be then fixed, and may, on the application of the Trustee, order him to be examined as often as he shall see fit; and the examination may, at the discretion of the Sheriff, be upon oath.

74.
Warrant
where the
Bankrupt is
in England
or Ireland.

And be it Enacted, That if the Bankrupt be in any part of *Great Britain* and *Ireland* other than *Scotland*, the Lord Ordinary may, on petition by the Trustee, grant warrant, under the seal of the Court of Session, to all Judges, Justices and Officers of the law, if the Bankrupt be at large, to apprehend and transmit him to the place of his examination, and to enforce the same, which they are hereby required to do; and if the Bankrupt be in prison or custody, the Lord Ordinary shall grant warrant, as aforesaid, to Magistrates and gaolers, upon receiving a duplicate of such act and warrant, and an acknowledgment for the person of the Bankrupt, to deliver him to the messenger or officer presenting such warrant; which they shall do accordingly, and such warrant shall be sufficient authority for the apprehension, transmission, detention and incarceration of the Bankrupt (where necessary for his safe custody) for examination, and for his retransmission after examination to and reincarceration in the prison or custody from which he was delivered up.

75.
Other per-
sons may be
examined,
and, if neces-
sary, appre-
hended.

And be it Enacted, That the Sheriff may at any time, on the application of the Trustee, order an examination of the Bankrupt's wife and family, clerks, servants, factors, law agents and others who can give information relative to the Bankrupt's estate, either by declaration or on oath, as to the Sheriff shall seem fit; and the Sheriff shall, on the application of the Trustee, issue his warrant requiring such persons to appear; and if any of them refuse or neglect to appear when duly summoned, the Sheriff shall issue another warrant to apprehend the person so failing to appear:
Provided

Provided that where any person required to be examined is not the Bankrupt, nor one of his family, nor his clerk or servant, no warrant for apprehension of such person shall be issued till the expiration of Eight Days from the service of the first warrant, unless
 5 the Trustee shall make oath that he believes that such person intends to leave the country to avoid the examination, and he shall specify on oath a reasonable cause of belief, in which case it shall be competent forthwith to issue such warrant; which several warrants shall be sufficient to authorize messengers at arms, or the
 10 officers of the said Sheriff, to execute the same in all parts of Scotland, either within or without the territory of the Sheriff: And if any such person cannot conveniently attend for examination, the Sheriff may grant commission to take his examination.

And be it Enacted, That the Bankrupt and the said persons shall
 15 answer all lawful questions relating to the affairs of the Bankrupt; and the Sheriff may order such persons to produce for inspection any books of account, papers, deeds, writings, or other documents in their custody relative to the Bankrupt's affairs, and cause copies thereof to be delivered to the Trustee: Provided that persons other
 20 than the Bankrupt, summoned to attend for examination, shall be entitled to such allowances as witnesses are in other cases entitled to, and the amount of which, if disputed, shall be fixed by the Sheriff.

76.
Must answer
all lawful
questions, &c

And be it Enacted, That if the Bankrupt, or any of the said persons, shall refuse to be sworn, or to answer, to the satisfaction
 25 of the Sheriff, any lawful question put to him by the Sheriff or Trustee, or any Creditor with the sanction of the Sheriff, or without lawful cause shall refuse to sign his examination, or to produce books, deeds or other documents in his custody or power relating to the estate, the Sheriff may grant warrant to com-
 30 mit him to prison, there to remain until he comply with the order; which warrant shall specify the question and answer, book, deed, document, or the refusal to swear or to sign the examination; and such warrant shall not be subject to the review of the Court of Session, but the Bankrupt or person incarcerated may apply by
 35 written petition (without argument) to the Lord Ordinary for a recall of the warrant; and the Lord Ordinary shall order the petition to be served on the Trustee or the said Creditor, and shall thereafter hear parties *vis à voce*, and pronounce judgment.

77.
Effect of re-
fusal to
answer, &c.

And be it Enacted, That the Bankrupt, before the close of his
 40 examination, may make such additions to or alterations upon the state of his affairs as may have occurred to him to be necessary to give a full view of his affairs, which state, with the additions and alterations, shall be subscribed by the Sheriff, the Bankrupt, and the Trustee; and the Bankrupt shall then take the following oath,

78.
Bankrupt
may correct
his State, and
must take
Oath.

which shall be engrossed in the Sederunt Book, and subscribed as aforesaid, as relative to the said state; and where the Bankrupt is a partner with others, and examined respecting the affairs of the partnership, the words of the oath shall so far be varied as to make it applicable to the case:

5

Oath.

"I DO, in the presence of Almighty God, and as I shall answer to God at the great Day of Judgment, solemnly swear, That the state of my affairs subscribed by me as relative hereto contains a full and true account, to the best of my knowledge and belief, of all the debts of whatever nature due to me, and of all my estate and effects, heritable and moveable, real and personal, wherever situated, the necessary wearing-apparel of myself, my wife and family, only excepted, as well as of all claims which I am entitled to make against any person or persons whatsoever, and of all estate in expectancy, or means of whatever kind to which I have an eventual right by contract of marriage, trust-deed, settlement, deed of entail, or otherwise; and that the said state likewise contains a full and true account of all debts due by me, or demands upon me; and that I have delivered up the whole books, documents, accounts, title-deeds, and papers of every kind belonging to me which in any way relate to my affairs, and which were in my possession or under my power; and that I have made a full disclosure of every particular relating to my affairs: And further I promise and swear, That I will forthwith reveal all and every other circumstance or particular relative to my affairs which may hereafter come to my knowledge, and which may tend to increase or diminish the estate in which my Creditors may be interested, directly or indirectly. So help me GOD."

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79.
Latent Partners must disclose themselves.

And be it Enacted, That if any latent partner of a company shall not, by intimation to the Interim Factor or Trustee, acknowledge that he is a partner, on or before the day appointed for the examination of the Bankrupt partners, he shall not be entitled to the benefits or privileges of this Act, unless in an application for the same he satisfy the Lord Ordinary that the omission proceeded from innocent mistake, and unless he shall then follow out all necessary steps for remedying the loss and inconvenience thence arising.

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80.
Meeting after Bankrupt's examination.

And be it Enacted, That within Fourteen Days after the examination of the Bankrupt, the Trustee shall prepare a Report, setting forth the state of the Bankrupt's affairs, and an estimate of what it may produce, which Report he shall exhibit at the meeting of the Creditors to be held after the examination of the Bankrupt, and give-

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give all explanations relative thereto; and the Creditors then assembled may receive any offer of composition as hereinafter provided, and may, either at this or any other meeting called for the purpose, give directions for the recovery, management and disposal of the estate, and whether the Trustee shall dispose of the heritable estate by public sale, or bring it to judicial sale before the Court of Session, or before the Sheriff, if competent.

And be it Enacted, That the Trustee or any Commissioner may at any time call a meeting of the Creditors, and the Trustee shall call such meeting when required by One-fourth in value of the Creditors ranked on the estate; and wherever it is in this Act directed that a meeting of Creditors shall or may be called or held, a notice of the day, hour, place and purpose of the meeting shall be advertised in the *Edinburgh Gazette* Fourteen Days at least before the day of the meeting, and such meeting may be adjourned to the following day: And it shall not in any case be necessary to send any notification, as is by this Act directed to be sent, by post to any Creditor whose debt shall be under Twenty Pounds, unless the Creditor shall have given directions in writing that such notification shall be sent; and no notification shall be sent to any Creditor who has directed that none shall be sent.

81.
Meetings may be called at any time on due notice.

To what Creditors Notices to be given through Post Office.

And be it Enacted, That the Trustee shall keep a Sederunt Book, in which he shall record all minutes of meetings of Creditors and of Commissioners, states of accounts, reports, and all the proceedings necessary to give a correct view of the management of the estate: Provided always, That where any document is of a confidential nature, (such as the opinion of counsel in regard to any matter affecting the interests of the Creditors or the estate,) the Trustee shall not be bound to insert it in the Sederunt Book, or to exhibit to any other person than the Commissioners, unless he be ordered by competent authority to do so; and the Trustee shall also keep regular accounts of the affairs of the estate, and he shall transmit to the Bill Chamber Clerk, before each of the periods herein assigned for payment of a dividend, a copy, certified by himself, of such accounts; and such copies shall be preserved in the office of the said Clerk.

82.
Trustee to keep Sederunt Book and send Copy of Accounts to Clerk.

And be it Enacted, That the Interim Factor, Trustee and Commissioners shall be amenable to the Lord Ordinary and to the Sheriff to whom the Sequestration shall have been remitted, although resident beyond his territory, at the instance of any party interested, to account for their intromissions and management under the Sequestration, by petition served on them.

83.
Interim Factor, Trustee and Commissioners, amenable to the Court of Session and Sheriff.

84.
Removal of
Trustee.

And be it Enacted, That a majority in number and value of the Creditors present at any meeting to be called by an advertisement published in the *Edinburgh Gazette* at least Fourteen Days before such meeting, specifying the purpose of the meeting, may remove or accept the resignation of the Trustee; and One-fourth of the Creditors in value may at any time apply by petition to the Lord Ordinary for removal of the Trustee; and the Lord Ordinary shall order the said petition to be served on the Trustee, and intimated in the *Edinburgh Gazette*: And if the Lord Ordinary shall be satisfied that sufficient reason has been shown, he shall remove the Trustee, and appoint a meeting of the Creditors to be held for devolving the estate on the Trustee next in succession, or electing a new Trustee: And if the Trustee shall die, resign or be removed, or remain at any one time for Three Months furth of *Scotland*, any Commissioner or any Creditor ranked on the estate may apply to the Sheriff for an order to hold a meeting for devolving the estate on the next Trustee in succession, or electing a new Trustee; and the Sheriff shall grant warrant to hold such meeting at a certain time and place, which shall be advertised in the *Edinburgh Gazette* by the Commissioner or Creditor so applying; and at the time and place so appointed, the Creditors at such meeting may devolve the estate on the next in succession, or elect a new Trustee; and in all cases of a new election, the procedure shall take place in the same way as is hereinbefore provided for the case of the first election.

85.
Right to the
whole Estate
vested in
Trustee.

And be it Enacted, That the right to the estate and effects of the Bankrupt, wherever situated, so far as attachable for debt, shall, by virtue of the act and warrant of confirmation in favour of the Trustee, be transferred to and vested in him for the purposes of this Act, as at the date of the Sequestration, with every right, title, and interest which was then in the Bankrupt, (subject always to such preferable securities as existed at the date of the Sequestration, and are not null or reducible); and the whole heritable estates belonging to the Bankrupt in *Scotland* shall, by virtue of the act and warrant of confirmation, belong to the Trustee absolutely and irredeemably, as at the date of the Sequestration, to the same effect as if a decree of adjudication in implement, as well as for payment and security of debt, subject to no legal reversion, had been pronounced in his favour, and recorded at the date of the Sequestration: And his right shall not be challengeable on the ground of any prior inhibition (saving the effect which such inhibition may be entitled to in the ranking of the Creditors): Provided always, That such transfer and vesting of the heritable estate shall have no effect upon the rights of the superior, nor upon any question of succession between the heir and executor of any Creditor claiming on the sequestrated estate, nor upon the rights of the Creditors of the ancestor, (except that the act and warrant of confirmation shall operate

Superior's
Rights and
Limitations
of Bankrupt's
Estate not to
be affected

operate in their favour as complete diligence); and if the right to any part of the Bankrupt's heritable estate be entailed or otherwise limited, the right vested in the Trustee shall be effectual only to the extent of the interest in the estate which the Bankrupt might legally convey, or which the Creditors might validly attach: And the right vested in the Trustee shall be a complete transfer in his favour of the moveable estate by the act of warrant of confirmation for behoof of all the Creditors, as at the date of the Sequestration, without the necessity of intimation, and as if special intimation had been made.

10 And be it Enacted, That where the Sequestration is dated within Year and Day of any effectual adjudication, the Trustee shall be entitled to appear and claim as if he had obtained decree of adjudication for the whole debts of the Bankrupt, principal and interest, accumulated at the date of the Sequestration; and the estate so
15 adjudged shall be disposed of under the Sequestration according to the provisions of this Act.

86.
Sequestration equivalent to an Adjudication in Competition.

And be it Enacted, That all lands, tenements and hereditaments in England, Ireland, or in any of His Majesty's dominions, to which the Bankrupt is entitled, and all interest to which he is entitled in
20 any such lands, tenements or hereditaments, and of which he might, according to the laws of *England, Ireland*, or other His Majesty's dominions, have disposed, and all such lands, tenements and hereditaments which he shall purchase, or which shall descend, be devised, revert to, or come to the Bankrupt before he shall have
25 obtained his discharge, and all deeds, papers and writings respecting the same, shall, by virtue of the act and warrant of confirmation, vest in and belong to the Trustee for the purposes of this Act, as at the date of the Sequestration: Provided that where, according to the laws of *England, Ireland*, or other His Majesty's dominions, any
30 deed or conveyance would require registration, enrolment or recording, the act and warrant of confirmation shall be so registered, enrolled or recorded according to the laws of *England, Ireland*, or other His Majesty's dominions; and if any purchase is made by any person for valuable consideration, and without notice of the Sequestration, prior to the registration, enrolment, or recording of the
35 said act and warrant of confirmation, such purchase shall not be invalidated by the existence of such act and warrant, or the subsequent registration, enrolment or recording thereof.

87.
Estates in England, Ireland, and other British dominions.

And be it Enacted, That if any estate, wherever situated, shall, after the date of the Sequestration, and before the Bankrupt has
40 obtained his discharge, be acquired by him, or descend, devolve upon or revert to him, he shall forthwith notify the same to the Trustee; and the Trustee shall present a petition setting forth the circumstances to the Lord Ordinary, who shall appoint intimation

88.
Acquisitions of Bankrupt after the Sequestration to belong to the Creditors.

to be made in the *Edinburgh Gazette*, and require all concerned to appear within a certain time for their interest; and after the expiration thereof, and no cause shown to the contrary, the Lord Ordinary shall declare all right and interest in such estate which belongs to the Bankrupt to be vested in the Trustee, as at the date of the said petition; and the proceeds thereof when sold shall be divided in terms of this Act: Provided that the rights of the Creditors of the person from whom such estate shall descend to the Bankrupt shall be reserved entire. 5

89.
Subjects im-
properly in-
cluded in
Sequestration
may be struck
out.

And be it Enacted, That any person claiming right to an estate included in the Sequestration may present a Petition to the Lord Ordinary, praying to have such estate struck out of the Sequestration; and the Lord Ordinary shall order the Trustee to answer within a certain time, and on expiration of such time he shall proceed to dispose of the application. 10 15

90.
Trustee may
complete
feudal Titles,
or grant such
Rights as
Bankrupt
could do.

20 Geo. 2.

And be it Enacted, That the Bankrupt shall grant all deeds necessary for the recovery and effectually vesting his estates in the Trustee for the purposes of this Act; and if the Bankrupt's title to any estate has not been completed, the Trustee may complete titles for behoof of the Creditors in his own person, or in that of the Bankrupt; and superiors shall, if required, enter the Trustee, or the purchaser from him, in terms of an Act of the twentieth year of the reign of his Majesty King GEORGE the Second, intituled, "An Act for abolishing Ward Holdings:" Provided that the Trustee may, without making up a feudal title in his person, grant conveyances of the heritable estate belonging to the Bankrupt, with such procuratories, precepts or other warrants as the Bankrupt might competently have granted, without being affected by any inhibition against the Bankrupt, reserving the effect of such inhibition in the ranking. 20 25 30

91.
Provisions
where Bank-
rupt is party
to Charters,
Leases, &c.

And be it Enacted, That where the Bankrupt is a party to or in the right of any charter, lease or other contract attachable for debt, and thereby under express or implied stipulations for feu-duty, rent or other prestation, the said transference to and vesting in the Trustee shall not be deemed an undertaking by him or the Creditors to implement such stipulations; but the majority of the Creditors at the meeting for election of Trustee may resolve to undertake such stipulations; and if they do so resolve, they shall, within Fourteen Days from the date of the meeting, tender, under form of protest, to the person to whom such feu-duty, rent or other prestation is due, an obligation by One or more solvent parties for payment thereof; but no resolution as to undertaking the said obligation shall bind any Creditor beyond the amount 35 40

amount of his interest in the sequestrated estate, unless he shall expressly consent to or homologate the said resolution : And if such obligation be not tendered within Fourteen Days after such meeting, the said person may (whether a resolution to the effect foresaid has
 5 been made or not) apply to the Lord Ordinary or to the Sheriff to ordain the Creditors to grant such an obligation within Twenty-one Days after the date of service on the Trustee, and if they shall fail to do so, the Lord Ordinary or Sheriff (as the case may be) shall declare the right of the Bankrupt under such charter,
 10 lease or other contract, to be not vested in the Trustee, and not available to the sequestrated estate, reserving to the said person all claims of damages against the estate in consequence of any failure by the Bankrupt in the performance of stipulations under the charter, lease or other contract: Provided always, That if the Cre-
 15 ditors fail to grant the said obligation, any Creditor may attach the Bankrupt's right under such charter, lease or other contract, as if the Sequestration had not been awarded, subject always to any liability which he may thereby incur to implement the stipulation thereof.

20 And be it Enacted, That where Sequestration is awarded against the estate of a person after his death, and his successor has made up a title to his heritable estate, the Trustee may apply by petition to the Lord Ordinary, praying that such estate shall be adjudged to him ; and the Lord Ordinary shall order the petition to be served
 25 upon such successor, and require him to answer the same within Fourteen Days ; and if on expiration of that period no cause is shown to the contrary, the Lord Ordinary shall declare such estate to be vested in the Trustee as at the date of the Sequestration, to the same effect as is hereinbefore provided ; and the Trustee shall within
 30 Eight Days thereafter cause such decree to be recorded in the Register of Abbreviates of Adjudications, as before provided.

92.
Trustee may get Property adjudged to him, although Heir of Bankrupt has made up Titles.

To be recorded in Register of Adjudications.

And be it Enacted, That if a majority of the Creditors at the said meeting held after the examination of the Bankrupt, or at any other meeting called for the purpose, resolve that the Trustee shall dispose of the heritable estate by public sale, or bring it to judicial
 35 sale, before a Creditor holding a power of sale shall have commenced proceedings for sale, or if such proceedings have been unduly delayed, such Creditor shall not be entitled to interfere with the sale by the Trustee.

93.
Circumstances in which Heritable Creditors not to interfere with Sale by Trustee.

And be it Enacted, That any public sale of the heritable estate shall
 40 be made by auction in the manner which shall be fixed by the Trustee, with consent of the Commissioners ; and if the estate be sold, the Trustee, with consent of the Commissioners, shall grant a disposition to the purchaser, which shall have the effect of conveying whatever right is in the Trustee, under burden of the securities preferable to

94.
Public Sale of Heritable Subjects ;

Effect on
Securities.

the right of the Trustee, but shall free and discharge the estate of all securities not preferable to the right of the Trustee, and of all diligence not completed at the date of the Sequestration.

95.
Heritable
Creditor may
allow Trustee
to sell.

And be it Enacted, That if a Creditor holding an heritable security, with a power to sell, concur with the Trustee in bringing the estate to sale, the Trustee shall sell the same in his own name; and the articles of roup and conveyance to the purchaser shall be executed by the Trustee, with consent of the said Creditor and the Commissioners, and the price shall be paid by the purchaser to the parties legally entitled thereto, and, in so far as not paid at the time of the delivery of the conveyance, it shall be consigned in the bank in which the money of the Bankrupt estate is deposited; and the payment or consignment of the price shall free and discharge the subject sold, and the purchaser, from all securities preferable to that of the concurring Creditor, in so far as satisfied by such payment or consignment, and also, whether satisfied or not, from the debt of the concurring Creditor, and of all securities postponed thereto.

96.
Heritable
Creditor, with
power to sell,
may sell.

And be it Enacted, That a Creditor who holds an heritable security preferable to the right of the Trustee, with a power to sell, may sell in terms of his Bond, notwithstanding the Sequestration; but the Trustee, by petition to the Lord Ordinary or to the Sheriff, may compel the Creditor and the purchaser to account for any reversion of the price.

97.
Judicial Sale.

And be it Enacted, That if a majority of Creditors assembled as aforesaid shall resolve on a judicial sale, the Trustee shall institute such an action, which may be carried on as to a part or the whole of the estate, and without any other proof of Bankruptcy than the Sequestration; and every heritable Creditor in possession shall be cited upon induciæ of Fifteen Days, whether within *Scotland* or not, and it shall not be necessary to call any other parties; and on the estate being sold, the price, after satisfying any preferable securities, shall be paid by the purchaser to the Trustee; and the purchaser shall, upon payment of the price, receive a discharge from the Trustee, which, with the decree of sale, shall free and discharge the estate in the same way as a decree of sale in an action of ranking and sale.

Disposal of
Price.

Effect of a
Decree of
Sale.

98.
Expenses of
Sale as against
Heritable
Creditors.

And be it Enacted, That no part of the expenses of the Sequestration, nor of the sale of the heritable estate, nor of the Trustee's Commission, shall be payable out of such part of the price as may be necessary to discharge the securities on the heritable estate preferable to the Trustee; and no heritable Creditor, or Creditor preferable to the Trustee on the heritable estate, shall be liable for or affected

affected by the expense of such sale, unless he shall have consented to the sale.

And be it Enacted, That no Creditor who holds a security over the heritable estate preferable to the right of the Trustee shall be prevented by the Sequestration from taking possession or executing a poinding of the ground, or an action of mailles and duties; but no such poinding shall attach any moveables belonging to the Bankrupt, unless the summons or letters shall have been executed prior to the date of the Sequestration; nor shall such poinding be available for the payment of the principal debt, or for more than the current term's interest, and One Year's arrear of the interest of the said debt.

99.
Sequestration
not to affect
Heritable
Creditor's
right to
poind
Ground, &c.
for One Year's
Arrears of
Interest.

And be it Enacted, That nothing herein contained shall affect the landlord's right of hypothec.

100.
Landlord's
Hypothec
saved.

And be it Enacted, That all acts done or deeds granted by the Bankrupt after the date of the Sequestration (unless with the consent of the Interim Factor or Trustee) shall be null and void; and the Trustee shall be entitled to recover any money paid by the Bankrupt to any Creditors after such date; but if a *bonâ fide* purchaser is in possession of moveable effects from the Bankrupt for a price paid, or which he is ready to pay, he shall not be obliged to restore the effects; and if a Debtor, before he knew of the Sequestration, shall have paid his debt *bonâ fide* to the Bankrupt, he shall not be obliged to pay it a second time to the Trustee; and if the possessor of any bill or promissory note, with recourse on other parties, or of a security over any part of the estate of the Bankrupt, shall have *bonâ fide* received payment of his debt from him, and given up such bill, promissory note or security, such person shall not be liable to repay the amount so received, unless the Trustee shall replace him in the situation in which he stood, or reimburse him for any loss or damage.

101.
Acts and
Payments by
Bankrupt
after Seques-
tration null,
except in cer-
tain cases.

And be it Enacted, That diligence executed against the estate or effects of the Bankrupt on or after the Sixtieth Day prior to the Sequestration, or after the date of the Sequestration, shall not be effectual; and the estate or effects to which right shall have been obtained under such diligence, or the proceeds thereof if sold, shall be made forthcoming to the Trustee; provided that the first arrester or poinder before the date of the Sequestration, who shall be thus deprived of the benefit of his diligence, shall have preference for the expense *bonâ fide* incurred by him in such diligence on the estate or effects so recovered.

102.
Diligence
Sixty Days
before Se-
questration,
or after it,
ineffectual.

Expenses of
Diligence.

103.
Preferences
after the Se-
questration
to be assigned
to Trustee.

And be it Enacted, That if a Creditor shall, after the date of the Sequestration, obtain preference on or payment out of any estate or effects of the Bankrupt wherever situated, the same shall not be effectual to the creditors; and he shall be bound to convey to the Trustee such preference, and repay to the Trustee the money which he has received, retaining any expense incurred *bonâ fide*. 5

104.
Preferences
in case of a
deceased
Debtor.

And be it Enacted, That where the Sequestration of the estates of a deceased Debtor is dated within Seven Months after his death, all preferences and securities for any prior debt acquired by legal diligence within Sixty Days before his death, or subsequent thereto, and all preferences or securities acquired for a prior debt, by any act or deed of the Debtor which have not been lawfully completed at least Sixty Days before his death, and any confirmation as Executor Creditor after the Debtor's death, shall in these several cases be of no effect in competition with the Trustee. 10 15

105.
Interim Fac-
tor or Trustee
may be au-
thorized to
receive and
open Post
Letters.

And be it Enacted, That the Lord Ordinary or Sheriff, on cause shown, may order that, for a period not exceeding Three Months from the date of the order, all letters addressed to the Bankrupt shall be delivered by the Postmaster General, or the officers acting under him, to the Interim Factor or Trustee, to be opened in presence of the Sheriff, after written notice to the Bankrupt to attend, if within *Scotland*; and in case the letters shall relate in whole or in part to the estate, they shall be placed in such custody as the Sheriff may direct; and the Lord Ordinary or Sheriff may, on cause shown, renew such order for a like period as often as shall be necessary. 20 25

106.
Trustees and
Commis-
sioners may
submit and
transact.

And be it Enacted, That the Trustee may, with consent of the Commissioners, compound and transact or refer to arbitration any questions which may arise in the course of the Sequestration regarding the estate or any part thereof, or any demand or claim made thereon, and the transaction or decree-arbitral shall be binding on the Creditors and the Bankrupt. 30

107.
Creditors may
purchase.

And be it Enacted, That where any estate is sold by virtue of this Act, it shall be lawful for any Creditor to purchase the same; but neither the Interim Factor, Trustee nor any Commissioner shall be entitled to purchase. 35

108.
Realized
Estate to be
a Fund of
Division.

And be it Enacted, That the whole estate when reduced into money shall, after paying all necessary charges and a commission to the Trustee, be divided among those who were Creditors of the Bankrupt at the date of the Sequestration, ranked according to their several rights and interests.

And

And be it Enacted, That where there are sufficient funds realized, the first dividend shall be payable on the first lawful day after the expiration of Eight Months from the date of Sequestration ; and the second dividend shall be payable on the first lawful day after the expiration of Twelve Months from the said date ; and a dividend shall be payable on the first lawful day after the expiration of Four Months from the date of the payment of the immediately preceding dividend, until the whole funds of the Bankrupt be distributed, subject always to the provisions hereinafter made.

109.
Times at
which Divi-
dends to be
paid.

And be it Enacted, That to entitle any Creditor to payment of the first dividend, he shall lodge his oath and grounds of debt at least Two Months before the time fixed for payment of the first dividend : And to entitle any Creditor to payment of the second dividend, he shall lodge his oath and grounds of debt at least Two Months before the time fixed for payment of the second dividend : And to entitle a Creditor to payment of any of the subsequent dividends, he shall lodge his oath and grounds of debt at least Two Months before the day fixed for payment of the dividend which he means to claim : Provided, that if a Creditor has not lodged his oath and grounds of debt in time to share in the first dividend, but has done so in time to share in the second dividend, he shall be entitled, on occasion of payment of the second dividend, to receive out of the first of the fund (if there be sufficient for that purpose) a sum equal to the dividend he would have drawn, if he had claimed in time for the first dividend ; and the same rule shall apply as to all subsequent dividends ; and the Trustee shall, on production of the oaths and grounds of debt, mark the same and make an entry in the Sederunt Book of the date when the same were lodged, and, if required, he shall return to the Creditor the grounds of debt.

110.
Time within
which Credi-
tors to lodge
their Claims,
in order to
receive pay-
ment of
Dividends.

And be it Enacted, That on the expiration of Six Months from the date of the Sequestration, the Trustee shall make up a state of the whole estate of the Bankrupt, of the funds recovered by him, and of the funds outstanding (specifying the cause why they have not been recovered), and of his intromissions, and generally of his management, which state he shall forthwith exhibit to the Commissioners ; and within Fourteen Days after the expiration of the said Six Months, the Commissioners shall meet and examine the said state, and ascertain whether the Trustee has lodged the monies recovered by him in Bank or not, and if he has failed to do so, they shall debit him with a sum at the rate of Twenty Pounds on every Hundred Pounds not lodged, and so after that rate on any larger or smaller sum, being not less than Fifty Pounds and they shall audit his accounts and settle the amount of his commission, and authorize him to take credit for it in his accounts with the estate ;

111.
First Divi-
dend.
Trustee to
make up and
exhibit to
Commission-
ers State of
Funds.

Commission-
ers to meet,
and resolve as
to payment of
Dividend, &c.

and they shall certify, by a writing under their hands engrossed in the Sederunt Book, the balance due to or by the Trustee in his account with the estate as at the expiration of the said Six Months; and they shall declare whether any and what part of the net produce of the estate shall be divided among the Creditors.

5

112.
Trustee
within Four-
teen Days to
make up List
of Creditors
entitled or not
entitled to
payment of
Dividend, and
to publish and
send Notices.

And be it Enacted, That the Trustee shall, before the lapse of Fourteen Days from the expiration of Six Months from the date of the Sequestration examine the several oaths and grounds of debt, and in writing reject or admit them, or require further evidence in support thereof: And in case he shall reject any claim, he shall in his deliverance state the grounds of such rejection; and he shall complete the list of the Creditors entitled to draw a dividend, specifying the amount of their debts, with interest thereon to the date of the Sequestration, and distinguishing whether they are ordinary Creditors, or preferable or contingent; and he shall likewise make up a separate list of any Creditors whose claims he has rejected in whole or in part, and he shall give notice in the *Edinburgh Gazette* published next after expiration of the said Fourteen Days, of the time and place of the payment of the dividend, and also notify the same by letters put into the Post Office on or before the first lawful day after the said Fourteen Days, addressed to each of the Creditors; and where he has rejected any claim, he shall notify the same to the claimant by letter as aforesaid, containing a copy of his deliverance, and he shall also specify the amount of dividend to which the rejected claimant would be entitled if not rejected, or as near to the amount thereof as circumstances will permit: Provided that any Creditor dissatisfied with the decision of the Trustee may appeal by a short written note to the Lord Ordinary or to the Sheriff; but if no appeal be made before the expiration of Thirty Days from the date of the said advertisement, the decision of the Trustee shall be final and conclusive; so far as regards that dividend, without prejudice to any new claim being afterwards made in reference to future dividends, but which shall not disturb prior dividends.

Creditors may
appeal within
a limited
period.

113.
Trustee to
make up
Scheme of
Division.

And be it Enacted, That the Trustee shall, before the expiration of Eight Months from the date of the Sequestration, make up a scheme of division of the fund directed by the Commissioners to be divided, and apportion the same among those Creditors whose claims have been sustained by him or by the Lord Ordinary or Sheriff, or who shall have appealed against his decision, and also among those whose appeals have not been determined, and which scheme shall be patent to all concerned.

114.
Dividends to
be paid, and
those dis-

And be it Enacted, That on the said first lawful day after expiration of Eight Months from the date of Sequestration, and at the place

place appointed, the Trustee shall pay to the Creditors the dividends allotted to them respectively in terms of the said scheme; and he shall lodge in the Bank appointed by the Creditors, or, failing such appointment, in one of the said Banks in a separate account, in name of himself and the Commissioners, the dividends apportioned to those claims which are under appeal, but not finally determined, and the dividends effeiring to contingent Creditors, or other claimants not then entitled to uplift the same.

puted or claimed by contingent Creditors to be lodged in Bank.

And be it Enacted, That on the expiration of Ten Months from the date of Sequestration, the Trustee shall again make up a state as hereinbefore provided, which he shall within Fourteen Days after the expiration of the said Ten Months exhibit to the Commissioners, who shall meet and adjust the state and perform the other acts and duties incumbent on them in manner before specified, and direct a second dividend to be paid, if there shall be funds to pay the same; and if they shall direct a dividend to be paid, the Trustee shall notify in the Gazette and by letters, as in the case of the first dividend; and he shall also make up lists of the Creditors who are entitled and who are not entitled to payment of the dividend, and frame a scheme of division, and any Creditor may appeal, all in manner hereinbefore provided for the first dividend.

115.
Second Dividend.
Trustee to make up State, &c. and Commissioners to resolve as in case of first Dividend.

And be it Enacted, That on the said first lawful day after the expiration of Twelve Months from the date of Sequestration, the Trustee shall make payment of the second dividend to those Creditors whose claims have been admitted by him or the Lord Ordinary or the Sheriff, and shall lodge the dividends disputed or not then payable, all in manner hereinbefore provided for the first dividend.

116.
Dividend to be paid.

And be it Enacted, That the like procedure shall be followed out at similar intervals of time thereafter, in order that a dividend may be made on the first lawful day after the expiration of every Four Months from the day of payment of the immediately preceding dividend, until the whole funds of the Bankrupt shall be divided.

117.
Subsequent Dividends.
Same proceedings as in prior Dividends.

And be it Enacted, That if it shall appear to the Commissioners that a dividend ought to be postponed, they shall authorize the Trustee to give a notice to that effect in the next *Edinburgh Gazette*; provided that the state of the funds shall be made up, and the accounts of the Trustee audited at the time and in the manner before directed; and circulars containing a copy or abstract of the said state shall be sent by post to the Creditors, unless the Commissioners shall otherwise direct.

118.
Proceedings when Commissioners postpone the Dividend.

And be it Enacted, That if, on the lapse of Twelve Months from the date of Sequestration, it shall appear to the Trustee and Commissioners

119.
Winding up of Estate; and close of Sequestration.

Proceedings
for this pur-
pose.

expedient to sell the heritable or moveable estates not disposed of, and any interest which the Creditors have in the outstanding debts and consigned dividends from other Bankrupt estates, they shall fix a day for holding a meeting of the Creditors to take the same into consideration; and the Trustees shall, Fourteen Days before the day appointed, send 5 by post to the Creditors a notice of the time and place of the meeting, with a valuation of the estate and effects, and a list of the outstanding debts and of the consigned dividends; and if Three-fourths of the Creditors in value assembled at the meeting shall decide in favour of a sale in whole or in lots, the Trustee shall sell the same by auction, 10 after notice thereof published at least Once in the *Edinburgh Gazette* One Month previous to the sale, and in such other newspapers as the Creditors shall appoint.

120.
Discharge of
Bankrupt on
Composition.
Proceedings
for this pur-
pose at the
first general
Meeting.

And be it Enacted, That at the said meeting for election of Trustee, the Bankrupt, or, in case of his decease, his successors, and, in 15 a case of a Company, one or more of the Partners thereof, may offer a composition to the Creditors on the whole debts, with security for payment of the same; and if the majority of the Creditors in number and Four-fifths in value present at such meeting shall resolve that the offer and security shall be entertained for consi- 20 deration, the Trustee or Interim Factor (as the case may be) shall forthwith advertise in the *Edinburgh Gazette* a notice that an offer of composition has been so made and entertained, and that it will be decided upon at the meeting to be held after the examination of the Bankrupt, and he shall also transmit, by post, letters containing 25 a notice of such resolution, and of the day on which the said meeting is to be held, to the Creditors claiming on the estate, or specified in the Bankrupt's state of affairs; and if, at the said meeting held after the examination of the Bankrupt, a majority in number and Four-fifths in value of the Creditors there assembled shall 30 accept the said offer and security, a bond of caution for payment of the composition executed by the Bankrupt (or his successors, as the case may be), and the proposed Cautioner, shall be forthwith lodged in the hands of the Trustee; and the Trustee shall there- upon subscribe and transmit a report of the resolution of the 35 meeting, with the said bond, to the Bill Chamber Clerk in order that the approval of the Lord Ordinary may be obtained thereto; and if the Lord Ordinary shall find that the offer, with the security, has been duly made, and that the offer has been assented to by Four-fifths in value, and a majority in number of all the Creditors who at the time 40 of considering the report have proved their debt as before directed, he shall pronounce a deliverance approving thereof; provided that he shall hear any objection by opposing Creditors, and give his judgment thereon; and if he shall reject the vote of any Creditor, he shall specify the grounds of rejection.

And

And be it Enacted, That in like manner at the meeting held after the examination of the Bankrupt, or at any subsequent meeting called for the purpose by the Trustee, the Bankrupt, or, in case of his decease, his successors, and, in the case of a Company, One or more of the
 5 Partners thereof, may offer to the Creditors a composition on the whole debts, with security for payment of the same; and if such offer and the security shall be entertained by a majority in number and Four-fifths in value of the Creditors present, they shall direct the Trustee to call another meeting, to be held on a specified day, being not less
 10 than Twenty-one Days thereafter; and the Trustee shall, Fourteen Days at least before such other meeting, advertise the same in the *Edinburgh Gazette*, and send by post notices addressed to all the Creditors claiming on the estate, or mentioned in the Bankrupt's state of affairs, in which notices he shall specify the time, place, and purpose of the meeting, the offer and the security proposed, an abstract of the state and valuation made up relative to the estate, so as to enable the Creditors to judge of the expediency of the said offer; and if, at the meeting so called, a majority in number and Four-fifths in value of the Creditors present shall accept the said offer
 15 and security, a bond of caution shall be lodged, and a report made; and provided a majority in number and Four-fifths in value of the whole Creditors who have proved their debts shall assent to the composition, deliverance shall be pronounced, all in manner hereinbefore provided in regard to an offer made at the meeting for
 25 election of Trustee.

121.
 Proceedings for Discharge on Composition at Meeting after Bankrupt's examination.

And be it Enacted, That on such deliverance being pronounced in either of the cases above specified, the Bankrupt shall make a declaration, or, if required by the Trustee or any Creditor, an oath before the Lord Ordinary or the Sheriff that he has made a full
 30 and fair surrender of his estate, and has not granted or promised any preference, or made or promised any payment, or entered in to any secret or collusive agreement or transaction, to obtain the concurrence of any Creditor to the said offer; and in case the Bankrupt shall be at the time beyond the jurisdiction of the Lord Ordinary or Sheriff, commission may be granted to any fit person to take
 35 such declaration or oath; and the Lord Ordinary on being satisfied thereof, shall pronounce a deliverance discharging the Bankrupt of all debts and obligations contracted by him, or for which he was liable, at the date of the Sequestration, and shall
 40 declare him to be reinvested in his estate, (reserving always the claims of the Creditors for the said composition against him and the Cautioner); and the bond of caution shall be recorded in the books of the Court of Session or Sheriff Court; and an extract of the Interlocutor of the Lord Ordinary shall operate as a complete discharge and acquittance to the Bankrupt provisionally in terms thereof,

122.
 Bankrupt, on making Declaration or Oath, to obtain Discharge.

and shall receive effect within *Great Britain* and *Ireland* and His Majesty's other dominions.

123.

Trustee's
Accounts to
be audited,
and provision
made for his
Expenses and
Commission.

And be it Enacted, That before the Lord Ordinary or the Sheriff shall pronounce the said deliverance, the Commissioners shall audit the accounts of the Trustee, and ascertain the balance due to or by him, and fix the remuneration for his trouble, subject to the review of the Lord Ordinary or the Sheriff, if complained of by the Trustee, the Bankrupt, or any of the Creditors; and the expense attending the Sequestration and such remuneration shall be paid or provided for, to the satisfaction of the Trustee and Commissioners, before the said deliverance is pronounced: Provided that the Trustee and his Cautioner shall be liable, on summary petition to the Lord Ordinary or Sheriff by the Bankrupt or his Cautioner, to account for his intrusions and other acts as Trustee.

124.

Sequestration
to go on, not-
withstanding
offer of Com-
position.

And be it Enacted, That notwithstanding such offer of composition and proceedings consequent thereon, the Sequestration shall continue, and the Trustee shall proceed in the execution of his duty as if no such offer had been made, until the said deliverance by the Lord Ordinary be pronounced, when the Sequestration shall cease and be at an end.

125.

Bankrupt and
Cautioner not
to be entitled
to object to
Claims, &c.

And be it Enacted, That neither the Bankrupt nor the Cautioner for the composition shall be entitled to object to any debt which the Bankrupt has given up in the state of his affairs as due by him, or admitted without question to be reckoned in the acceptance of the said offer of composition; nor to object to any preference, security or lien held by any Creditor, unless in the offer of composition such preference, security or lien shall be stated as objected to, and notice in writing given to the Creditor holder thereof: Provided that no person who has not entered his claim as a Creditor before the date of the said deliverance on the offer of composition shall be entitled to make any demand against the Cautioner after the space of Two Years from the date of such deliverance, reserving to such Creditor his claim for the composition against the Bankrupt and his estate.

Claims against
Cautioner
limited in
certain cases
to Two Years.

126.

If offer of
Composition
rejected, no
other to be
entertained,
unless agreed
to by a
Majority of
Creditors
ranked.

And be it Enacted, That after an offer of composition has been made and rejected, or has become ineffectual, no other offer of composition shall be entertained, unless a majority in number and value of all the Creditors ranked on the estate shall assent in writing to such offer; which offer shall state the amount of composition and the terms of payment, and be subscribed by the Cautioner proposed, in which case a meeting shall be called by the Trustee for finally disposing of the same; and if, at the meeting so called, a majority

in number and four-fifths in value of the Creditors present shall accept the said offer and security, a bond of caution shall be lodged, and a report made, and deliverances pronounced, all in manner hereinbefore provided.

5 And be it Enacted, That the Bankrupt may, at any time after the meeting held after his examination, petition the Lord Ordinary or the Sheriff to be finally discharged of all debts contracted by him before the date of the Sequestration, provided that every Creditor who has lodged his oath and grounds of debt as aforesaid shall
10 concur in the petition; and the Bankrupt may also present such petition on the expiration of the period assigned for payment of the first dividend, provided a majority in number and four-fifths in value of the Creditors ranked on his estate concur in the petition: And the Lord Ordinary or the Sheriff (as the case may be) shall in
15 either case order the petition to be intimated in the *Edinburgh Gazette*; and if, at the distance of not less than Twenty-one Days from the publication of such intimation, and on evidence being produced of concurrence as aforesaid, there be no appearance to oppose the same, the Lord Ordinary or the Sheriff (as the case may
20 be) shall pronounce a deliverance finding the Bankrupt entitled to a discharge; but if appearance be made by any of the Creditors, or by the Trustee, the Lord Ordinary or the Sheriff shall judge of any objections against granting the discharge, and either find the Bankrupt entitled to the discharge, or refuse the same, or
25 annex such conditions thereto as the justice of the case may require.

127.
Discharge without Composition.
Proceedings for this purpose.

And be it Enacted, That if the Bankrupt shall be found entitled to his discharge, he shall make a declaration, or, if required by the Trustee or any Creditor, an oath before the Lord Ordinary or
30 Sheriff, that he has made a full and fair surrender of his estate, and has not granted or promised any preference, nor made or promised any payment, nor entered into any secret or collusive agreement or transaction, to obtain the concurrence of any Creditor to his discharge; and if the Bankrupt shall be at the time beyond the
35 jurisdiction of the Court of Session or Sheriff, commission may be granted to any fit person to take such declaration or oath: And the Lord Ordinary or the Sheriff (as the case may be), on being satisfied thereof, shall pronounce a deliverance discharging the Bankrupt of all debts and obligations contracted by him, or for which he was
40 liable, at the date of the Sequestration; and an extract thereof, when pronounced by the Sheriff, and signed by the Sheriff Clerk, shall forthwith be transmitted to the Clerk of the Bill Chamber, who shall present the same, without enrolment, to the Lord Ordinary, and the Lord Ordinary shall confirm the same by a deliverance, which, or an extract thereof, shall operate as a complete dis-

128.
Bankrupt to make a Declaration or Oath before obtaining Discharge.

charge and acquittance to the Bankrupt in terms thereof, and shall receive effect within *Great Britain and Ireland* and all His Majesty's other dominions.

129.
Preferences,
Payments and
collusive
Agreements
for Discharge
on Composi-
tion or other-
wise, null.

And be it Enacted, That all preferences and payments granted, made or promised, and all secret or collusive agreements and transactions, for concurring in, facilitating or obtaining the Bankrupt's discharge, either on or without an offer of composition, and whether the offer be accepted or not, or the discharge granted or not, shall be null and void; and if during the Sequestration any Creditor shall have obtained any such preference or payment, or promise thereof, or entered into such secret or collusive agreement and transaction, the Trustee shall be entitled to retain his dividend, and he or any Creditor ranked on the estate may present a petition to the Sheriff or to the Lord Ordinary, praying that such Creditor shall be found to have forfeited his debt, and be ordained to pay to the Trustee Double the amount of the preference or sum paid, or other consideration obtained; and if no cause be shown to the contrary, decree shall be pronounced accordingly; and the sums which in such case may be recovered shall, under deduction of the expenses of recovering the same, be distributed by the Trustee among the other Creditors under the Sequestration; and if the Sequestration shall have been closed, it shall be competent to any Creditor who shall not have received full payment of his debt to raise a multiplepounding in name of the person who has obtained such preference, payment or other consideration as aforesaid; and on the value of the preference or amount of the sum paid or consideration obtained being ascertained, such value or amount, together with the amount of the debt of the colluding Creditor, shall be ordered to be consigned by him as in a process of multiplepounding, and the same being ascertained shall be divided among the Creditors who were ranked or were entitled to be ranked in the Sequestration, and who shall lodge claims in such multiplepounding, according to their respective rights and interests: Provided that the said multiplepounding shall be executed in terms of law against the colluding Creditor, and notice thereof at the same time be inserted in the *Edinburgh Gazette*; and in the event that there shall be any surplus after paying the full debts of the Creditors, and defraying the expenses of the Sequestration or other proceeding, the same shall be paid into the account of unclaimed dividends as hereinafter provided.

130.
Bankrupt to
forfeit privi-
leges, if par-
ticipant in
giving such
Preferences,
&c.

And be it Enacted, That if the Bankrupt shall have been personally concerned in or cognizant of the granting or promising any preference or payment, or other consideration, or any secret or collusive agreement or transaction as aforesaid, he shall forfeit all right to a discharge, and all benefits under this Act; and such discharge, if granted, either on or without an offer of composition, shall

shall be annulled; and the Trustee or any one or more of the Creditors may apply by petition to the Lord Ordinary to have such discharge annulled accordingly.

And be it Enacted, That if it shall appear to a majority of the
 5 Creditors in number and value assembled at any meeting after the examination of the Bankrupt that he has not made a full and fair surrender of his estate, or that he has disposed of or concealed any part of his funds, to the prejudice of his Creditors, or that his Bankruptcy has been fraudulent, they may direct a meeting to be
 10 called specially for taking the subject into consideration on Fourteen Days' notice; and the said meeting, if they see cause, may authorize the Trustee to proceed against him in terms of law at the expense of the estate.

131.
 If Bankrupt do not make a fair Surrender, &c. to be punished.

And be it Enacted, That it shall be competent to appeal against
 15 the resolutions of the Creditors at meetings, either to the Lord Ordinary or the Sheriff, provided a note of appeal shall be lodged with the Bill Chamber Clerk within Fourteen Days after the date of the meeting at which the resolution objected to has been passed, or (as the case may be) in the hands of the Sheriff Clerk within the
 20 like period; and it shall in like manner be competent to appeal against any deliverance of the Trustee to the Lord Ordinary or the Sheriff, but only to the Lord Ordinary if the matter involve a question of heritable title, provided the note of appeal shall be lodged within Thirty Days of the date of the said deliverance; and where
 25 any such appeal is made, or any petition or complaint is presented against the Trustee or Commissioners, or against any of the Creditors, the Lord Ordinary or the Sheriff (as the case may be) shall appoint a copy thereof, and of his deliverance thereon, to be served on the Respondent or his mandatary or known agent, and
 30 appoint the Respondent to appear at a specified diet within such period as may be reasonable; and the Lord Ordinary or the Sheriff (as the case may be) shall at such diet hear parties *vivâ voce*, and the Lord Ordinary shall proceed to dispose of the case summarily, with or without a record, as he shall consider best; and
 35 the Sheriff may also, without further procedure, decide, provided he shall specify the facts, and assign the grounds of his judgment; but if he shall see cause, he may order minutes to be lodged by the parties, containing their averments in fact and pleas in law, without argument, and may hold the same as a closed record, and
 40 proceed as in a summary cause; and in pronouncing his judgment, he shall assign his reasons: And it shall be competent to the Lord Ordinary or the Sheriff, where any resolution of a meeting of the Creditors is complained of, to order a new meeting to be held, in order to reconsider the resolution complained of.

132.
 Judicial proceedings.

Appeals, &c. against resolutions of Creditors and deliverances of Trustee, to the Lord Ordinary or Sheriff.

133.
Review of
Sheriff's
Judgments.

And be it Enacted, That it shall be competent to bring under the review of the Inner House of the Court of Session any deliverance of the Sheriff, (except where the same is declared not to be subject to review), provided a reclaiming note shall be lodged with the Clerk of the Bill Chamber and marked by him within Twenty-one Days (unless herein otherwise directed) from the date of such deliverance, failing which the same shall be final; and such reclaiming note shall be disposed of by the Inner House as speedily as the forms of Court will allow; and if it be lodged in time of vacation, the Lord Ordinary may hear parties and give judgment; and it shall be competent for the Inner House or the Lord Ordinary to remit to the Sheriff with instructions. 5 10

134.
Review of
Lord Ordinary's
Judgments.

And be it Enacted, That where a judgment of the Lord Ordinary is intended to be brought under review of the Inner House, the same shall be done by a reclaiming note in common form. 15

135.
Regulation by
Sheriff of
Interim Possession.

And be it Enacted, That during the dependence of appeals, petitions and complaints, or reclaiming notes, it shall be competent to the Sheriff to give such orders as may be necessary to regulate the interim possession and administration of the estate.

136.
Appeals to
House of
Lords.

And be it Enacted, That if any appeal shall be made to the House of Lords, the Sequestration shall in all respects, not inconsistent with or injurious to the interests which may be affected by the appeal, proceed without interruption. 20

137.
Agents in
Court of Session
may be
Agents in
causes under
this Act before
the Sheriff.

And be it Enacted, that it shall be lawful for all agents duly qualified to practise before the Court of Session to practise in all Sheriff Courts in so far as relates to any of the proceedings authorized by this Act to be carried on before the Sheriff, provided that they shall not be entitled to payment of any higher fees than those allowed by this Act, or legally exigible in such Courts. 25

138.
Trustee to
make an annual
Return to Sheriff
Clerk, and he
to Bill Chamber
Clerk.

And be it Enacted, That each Trustee shall on the Thirty-first day of December yearly deliver free of expense to the Sheriff Clerk of the county a return, in the form of the Schedule marked (M.) hereunto annexed, of every Sequestration in which he is Trustee; and the Sheriff Clerk shall within Fourteen Days thereafter transmit, in the form of the said Schedule, to the Bill Chamber Clerk a return of all the Sequestrations depending in the sheriffdom or ward whereof he is Clerk; and the Bill Chamber Clerk shall cause the returns so made to be regularly inserted in a volume to be kept at all times in his office, with an index thereto framed by the said Clerk, and which volume shall be patent to all concerned; and any Trustee who shall fail to make such return shall be removable from his office at the instance of any one Creditor, or subject to such censure as the Lord Ordinary or Sheriff may think suitable, and be found liable in expenses. 30 35 40

And

139.
Trustee's
discharge.Proceedings
for this pur-
pose.140.
All Trustees
to lodge un-
claimed Divi-
dends, &c. in
Bank.Claimants
showing
right to apply
to Lord Ord-
inary.Interest
Account of
Unclaimed
Dividends.

And be it Enacted, That after a final division of the funds, the Trustee shall call a meeting of the Creditors by an advertisement in the *Edinburgh Gazette*, and by letters addressed by post to every Creditor who has lodged a claim on the estate, to consider as to an application for his discharge; and at such meeting he shall lay before the Creditors the sederunt-book and books of account, with a list of unclaimed dividends; and the Creditors may then declare their opinion of his conduct as Trustee; and he may thereafter apply to the Lord Ordinary or the Sheriff, who, on advising the petition with the minutes of the meeting, and hearing any Creditor, may pronounce or refuse decree of exoneration and discharge; and such decree, if granted, shall be entered in the Register of Sequestrations, and the bond of caution for the Trustee delivered up.

And be it Enacted, That every Trustee in any Sequestration awarded under this Act or under any former Act shall, before his discharge, transmit the sederunt book to the Bill Chamber Clerk, who shall thereupon intimate to the Trustee the bank in which the unclaimed dividends are to be deposited, and he shall name the same in the following rotation; videlicet, the Bank of *Scotland*, the Royal Bank of *Scotland*, the Bank of the *British Linen Company of Scotland*, the Commercial Bank of *Scotland*, and the National Bank of *Scotland*; and the Trustee shall forthwith transfer the whole dividends not then claimed to the bank so intimated, to be there entered in an account to be kept under the title of "Account of unclaimed Dividends;" and a book or books shall be kept at the office of the Bill Chamber Clerk, showing such rotation, and containing a list, with the names arranged alphabetically, of all the Creditors entitled to such unclaimed dividends, and in what bank deposited, which shall be patent to all persons; and after the discharge of the Trustee, it shall be competent for any person producing evidence of his right to apply to the Lord Ordinary for authority to receive such dividends, and, on the Lord Ordinary being satisfied of the claimant's right, a warrant shall be granted for payment of such dividend, and upon such warrant the bank shall pay the same; provided that the claimant shall not be entitled to interest on such dividend, but all interest shall go into a general fund to be called "The Interest Account of Unclaimed Dividends," which fund shall be applicable to the payment of expenses attending the management thereof, in such manner as shall be regulated by any Act of Parliament; and if at the end of Twenty-five Years from the date of closing any Sequestration there shall remain in the bank any unclaimed dividends belonging to the estate, the same shall be vested in Government stock, and the dividends thereon shall be regularly accumulated for the purpose of forming a fund for defraying the expense of proceedings in Bankruptcy, or otherwise as Parliament shall hereafter direct.

141.
Surplus to be
paid to Bank-
rupt.

And be it Enacted, That any surplus of the Bankrupt's estate and effects that may remain after payment of his debts, with interest, and the charges of recovering and distributing the estate, shall be paid to the Bankrupt, or to his successors or assignees.

142.
Provisions as
to Perjury.

And be it Enacted, That if any person shall be guilty of wilful falsehood in any oath or affirmation made in pursuance of this Act, he shall be liable to a prosecution either at the instance of His Majesty's Advocate, or at the instance of the Trustee with the concurrence of His Majesty's Advocate, at the expense of the estate, provided the prosecution shall be authorized by a majority in value of the Creditors present at a meeting to be called for the purpose; and such person shall on conviction, besides the usual punishment, forfeit to the Trustee, for behoof of the Creditors, his whole right, claim and interest in or upon the sequestrated estate.

143.
Deliverances,
&c. may be
partly print-
ed; and One
Witness suffi-
cient in Exe-
cutions.

And be it Enacted, That all deliverances, bonds, schedules and executions under this Act may be either printed or in writing, or partly both; and not more than One Witness shall be required for service or execution.

144.
No Fee Fund
Dues exigible.

Fees payable.

And be it Enacted, That from and after the commencement of this Act no payment shall be exacted as a contribution towards the Fee Fund at presenting any appeals, petitions or complaints, reclaiming notes, or any papers, under this Act: Provided; that in place of the whole fees heretofore exigible upon proceedings in Sequestrations, there shall be payable upon all proceedings under this Act the fees which are set forth in the Schedule marked (N.) hereunto annexed, and no others; and no Officer receiving any fees under this Act shall hold any vested interest in the same, but the fees hereby exigible shall be subject to regulation, without any claim for compensation on his part.

145.
Gazette
Keeper to
furnish copy
of Gazette to
Keeper of
Edictal Cita-
tions.

Charges on
Advertise-
ments under
this Act or 6 &
7 Wm. 4, c.
regulated.

And be it Enacted, That from and after the passing of this Act the Keeper of the *Edinburgh* Gazette shall on each day of publication furnish a copy thereof to the Keeper of Edictal Citations, who shall keep the same regularly filed, and make the same on all occasions patent to the lieges at office hours, on payment of a fee of Sixpence: And no advertisement inserted in the said Gazette by virtue of this Act, or an Act of the sixth and seventh year of His present Majesty, intituled, "An Act for regulating the Process of Cessio Bonorum in the Court of Session, and for extending the Jurisdiction of Sheriffs in *Scotland* to such cases," shall be charged by the Keeper of the said Gazette, for publication therein, at a higher price, nor shall a higher price be paid for such publication, than the sums specified in the Schedule (O.) hereto annexed.

And

Conveyances,
Deeds, &c.,
relating to
Estates of
Bankrupts,
not liable to
any Stamp-
duty.

And be it Enacted, That from and after the commencement of this Act, all conveyances, assignations, instruments, discharges, writings or deeds, and all notes or schedules to be registered in manner hereinbefore provided relating solely to the estate belonging to
5 any Bankrupt against whom Sequestration has been or may be awarded either under this or any former Act, and also all powers of attorney, commissions, factories, affidavits, certificates, bonds, articles of roup or sale, relating solely to the estate of any Bankrupt sequestrated as aforesaid, and all other deeds or writings forming a part of the proceedings ordered under such Sequestration,
10 and all notices or advertisements inserted in the *Edinburgh Gazette* relative thereto, shall be exempt from all stamp-duties or other Government duty, and no rates or duties imposed by any Statutes upon the sale of estates or effects by auction shall be exigible on the sale of any estates or effects by auction under the authority of this Act: Provided always, That no exemption from auction-duty shall be allowed on the sale by auction under this Act of any estate and effects, unless the auctioneer who shall conduct such sale shall, at the time of passing his account thereof, produce to the
20 Officer of Excise a catalogue signed and certified by the Trustee by whose order such sale shall have been made, in manner and form required by the laws of the Excise.

Gazette Ad-
vertisements
and Sales by
Auction not
liable to
Duty.

And be it Enacted, That it shall be lawful for the Judges of the Court of Session, by an Act or Acts of Sederunt, from time to time
25 to regulate the procedure of Sheriff Courts in relation to this Act, and also to establish a table of fees fixing the remuneration to be allowed to agents, both in the Court of Session and Sheriff Court, for conducting the proceedings, which Act or Acts of Sederunt shall within One month after the making thereof be transmitted by the Lord President of the Court of Session to the Secretary of State for
30 the Home Department, that the same may be laid before both Houses of Parliament.

147.
Acts of Sederunt may be made.

And be it Enacted, That this Act may be repealed, altered or amended during the present Session of Parliament.

148.
Act may be repealed or amended.

SCHEDULES

REFERRED TO IN THIS ACT.

SCHEDULE (A.)

DENUNCIATION OF INSOLVENCY.

I, *A. B.* [*say Messenger or Sheriff Officer, as the case may be*], notify to you, *C. D.* [*insert name and designation*], that you, having disobeyed the charge given to you [*say personally, or at your dwelling-house or place of business, or at the Office of Citations, as the case may be*], by [*name the Messenger or Officer by whom it was given*], on the day of to pay to *E. F.* [*name and designation*] the sum [*mention the sum for which the charge was given*], by virtue of [*give the description of the diligence*], dated the day of ; therefore you are hereby denounced Insolvent in terms of the Statute thereanent. This I do on the day of , before [*insert name and designation of one witness.*]

G. H. [*witness to sign here*] witness. (signed) *A. B.*

SCHEDULE (B.)

EXECUTION OF DENUNCIATION.

UPON the day of I, *A. B.* [*say Messenger at Arms or Sheriff Officer, as the case may be*], notified to *C. D.* [*insert name and designation*], that in consequence of having disobeyed the charge given to him by [*name the Messenger or Officer*] on the day of to pay to *E. F.* [*give the name and designation*] the sum [*mention the sum for which the charge was given*], by virtue of [*give the description of diligence*], dated the day of ; therefore I denounced the said *C. D.* Insolvent, in terms of the Statute thereanent, by delivering to him a denunciation [*say personally, or at the dwelling-house or place of business, or at the Office of Citation, as the case may be*], which denunciation did bear the date hereof, and was subscribed by me, with the name and designation of *G. H.*, witness [*mention name and designation*] hereto with me subscribing, present at the premises,

G. H. [*witness to sign here*] witness. *A. B.*

SCHEDULE (C.)

CERTIFICATE OF REGISTRATION OF DENUNCIATION.

THE above execution of denunciation was presented by [*name and designation*], and registered day of .

A. B.

SCHEDULE (D.)

REGISTER OF SEQUESTRATIONS.

Date of First Deliverance.	Name and Designation of Debtor.	County of Debtor's Residence or Business.	Name and Designation of Petitioning or Concurring Creditor.	Date of awarding. (If recalled, Entry to be in this Column.)	Time and Place for electing Interim Factor.	Name and Designation of Interim Factor.	Time and Place for electing Trustee.	Trustee's Name and Designation.	Time for lodging Claims for Dividend.

SCHEDULE (E.)

ABBREVIATE FOR THE REGISTER OF INHIBITIONS.

PETITION for Sequestration of *A. B.* [designation.]Date of first deliverance day of
(Signed) *C. D.* (If an Agent, state so.)

SCHEDULE (F.)

NOTICE FOR THE GAZETTE.

Sequestration of *A. B.* [designation.]

DATED [insert date of first deliverance]. Meeting to elect Interim Factor, to be held on [specify day of week, month, year and hour], at [specify place of meeting], and also Meeting to elect Trustee and Commissioners, and receive any offer of composition, on [day of week, month, year and hour], at [specify place of meeting]. The first dividend will be paid to those only who lodge oaths and grounds of debt on or before the [insert date].

(signed) *P. Q.* Agent.

SCHEDULE (G.)

FORM OF BOND OR CAUTION FOR AN INTERIM FACTOR OR TRUSTEE.

I, *A. B.* [designation], having been appointed Trustee [or Interim Factor] on the sequestrated estate of *C. D.* [designation]; and I, *E. F.* [designation] as Cautioner, Surety and full Debtor for and with the said *A. B.*, hereby bind and oblige ourselves, conjunctly and severally, our heirs and executors, that I the said *A. B.* will faithfully discharge all the duties which by law attach to the said office of Trustee [or Interim Factor], and fully account for my whole intromissions with the funds and effects of the said estate, and make payment of any balance due by me to the Creditors on the said estate, or Trustee elected by them to succeed me; declaring that this Bond shall not be in any way affected, or the said Cautioner liberated, by any omission, negligence or want of diligence on the part of the Creditors or Commissioners on the said estate. [In case the caution has been limited by the Creditors, the following clause will be here inserted: And declaring further, that this Bond, so far as concerns me the said *E. F.*, shall not bind me or my forebears to a greater extent than the sum of [here insert sum in writing], to which my obligation before written is hereby limited.] In witness whereof, this Bond (so far as not printed) written and filled up by [here shall be inserted in writing a testing clause in legal form.]

O. T., Witness.*F. L.*, Witness.(signed) *A. B.**E. F.*

SCHEDULE (N.)

TABLE OF FEES PAYABLE UNDER THIS ACT.

I.—IN THE COURT OF SESSION.

(1.) To the Bill Chamber Clerk :	£.	s.	d.
For recording an execution of denunciation of Bankruptcy - - - - -	-	2	6
For every extract of such recorded execution - - - - -	-	2	6
On every deliverance awarding Sequestration, granting discharge to the Bankrupt, approving of composition, or exonerating the Trustee, and entering the same in the office minute book - - - - -	-	5	-
On every deliverance specially adjudging heritable property to belong to the Trustee, and entering the same in the office minute book - - - - -	-	5	-
On every other deliverance (not being merely an order for papers, revisals, or such like), and entering same in the office minute book - - - - -	-	2	6
For entering the first deliverance and the deliverance awarding Sequestration in the register of Sequestrations - - - - -	-	1	-
For entering the name and designation of the Trustee - - - - -	-	1	-
For every borrowing of the proceedings or any part thereof, and for every returning thereof, each - - - - -	-	1	-
For every certified copy or extract from said register of Sequestrations, or of any part of the proceedings, per sheet - - - - -	-	1	-
For inspection of the list of unclaimed dividends, and certifying any extract made therefrom - - - - -	-	1	-
On the lodging of the Trustee's accounts - - - - -	-	1	-

(2.) To the Keeper of the General Minute Book :

For entering the first deliverance and deliverance awarding Sequestration, adjudication and discharge, and approval of composition, each - - - - -	-	2	6
For entering any other deliverance or intimation - - - - -	-	1	-

(3.) To the Extractors :

For every extract made of the proceedings, or of the deliverance of the Lord Ordinary or Inner House, per sheet - - - - -	-	1	-
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II.—TO THE KEEPERS OF THE RECORDS.

For entering any schedule - - - - -	-	1	-
For entering on the margin of any record the recall of Sequestration, or discharge in favour of the Bankrupt - - - - -	-	1	-
For access to and liberty to make excerpts of proceedings under this Act from any register or record appointed herein to be kept, or in which entries are herein appointed to be made, a fee of One shilling for each year of the record inspected, but not exceeding in all for any One record - - - - -	-	10	-
For extracts or certified copies therefrom, per sheet - - - - -	-	1	-
For collating and certifying excerpts therefrom, per sheet - - - - -	-	-	6

III.—SHERIFF COURT.

(1.) To the Sheriff Clerk :

On every deliverance pronounced by the Sheriff, appointing an Interim Factor, preferring a Trustee, appointing diets of examination, granting a discharge to the Bankrupt, approving of composition, or exonerating the Trustee - - - - -	-	2	6
For every other deliverance, not being merely an order for papers or revisals - - - - -	-	1	-
For issuing, receiving back and examining bond of caution for an Interim Factor or Trustee, to be paid at the issuing of bond - - - - -	-	2	6

	£.	s.	d.
For receiving and entering in Schedule (I.) each oath and objection and transmission thereof, to be paid by the Interim Factor or Trustee - - -	-	-	6
For oath of the Bankrupt, and examinations of him or others, per sheet - - -	-	1	-
For every warrant of apprehension of the Bankrupt or others, or commission to take examination - - - - -	-	2	6
For every backing of such warrant - - - - -	-	1	-
For every certified copy or extract of the proceedings before the Sheriff, or of any deliverance pronounced by him, per sheet - - - - -	-	1	-
For every annual report of the depending Sequestrations, for each Sequestration, to be paid by the Trustee - - - - -	-	-	6
For every borrowing of all or any part of the proceedings - - - - -	-	-	6
(2.) To the Sheriff attending any meeting of Creditors or examination, for each such meeting or diet of examination, not being on the same day -	1	1	-
IV.—OATHS.			
To the magistrate or other person appointed to take oaths under this Act, for each oath - - - - -	-	5	-

SCHEDULE (O.)

TABLE of PRICES payable for ADVERTISEMENTS in the EDINBURGH GAZETTE.

Bankrupts' Estates (Scotland).

A

B I L L

[AS AMENDED BY THE COMMITTEE]

For regulating the Sequestration of the
Estates of Bankrupts in Scotland.

(Prepared and brought in by
The Lord Advocate and Mr. Attorney General.)

Ordered, by The House of Commons, to be Printed,
9 June 1837.

[Price 8d.]



B I L L

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS it is expedient to amend the Laws of Scotland in matters relating to Bankruptcy, Personal Diligence, Arrestments, Poindings of Goods, Inhibitions, Adjudications, Judicial Sales, Powers of Sale and Poindings of the Ground: **AND** whereas in the year One thousand six hundred and twenty-one, an Act was made by the Parliament of Scotland, intituled, “A Ratification of the Act of the Lords of Council and Session, made in July One thousand six hundred and twenty, against unlawful Dispositions and Alienations made by Dyvours and Bankrupts,” and it is expedient to amend the said Act, and extend the benefits thereof; **BE it therefore Enacted**, by The **KING**’s most Excellent **MAJESTY**, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, **THAT** the words “Lord Ordinary” shall, unless otherwise expressed, mean the Lord Ordinary officiating on the Bills in the Court of Session; that the word “County” shall include Sherifffdom, Shire and Stewartry, and every Ward, District or Division thereof; that the word “Sheriff” shall include Sheriff-substitute, and Stewart and Stewart-substitute; that the words “Sheriff Court” shall include Stewart Court; that the words “Sheriff-clerk” shall include Sheriff-clerk Depute, Stewart-clerk and Stewart-clerk Depute; that the word “Estates” shall comprehend every kind of estate, heritable or moveable, real or personal, wherever situated; that the words “Decree” and “Interlocutor” shall include an order, warrant,

warrant, judgment or deliverance; that the word "Security" shall include all securities heritable and moveable, real and personal, and all conveyances of any such securities, and all liens and preferences; that the word "Successor" shall mean heirs, representatives by deed or otherwise, executors and nearest of kin, and also assignees and singular successors, where they have acquired the right; that the word "Month" shall mean a calendar month; that the words "Debtor," "Bankrupt" and "Creditor" shall mean bodies corporate, companies or partnerships, as well as individuals, and shall, as well as all other words importing the singular number and masculine gender, include several persons as well as one person, and females as well as males, and several matters of the same kind as well as one matter, unless it shall be otherwise provided, or the subject-matter or context be repugnant to such construction: And this Act shall be construed in the most beneficial manner for promoting the ends hereby intended.

2.
Deeds and
acts by an
Insolvent
Debtor in
favour of a
conjunct and
confident Per-
son, to the
prejudice of
Creditors, null.

And be it Enacted, That on and after the *First* day of *October* *One thousand eight hundred and Thirty-seven*, if a Debtor who is insolvent shall directly or indirectly grant in favour of a conjunct and confident Person any conveyance whatsoever of, or any heritable security over his heritable estate, or any assignation, bond, bill, obligation, discharge or document as for money due, by which any heritable or moveable property belonging to him shall be transferred or burdened with debt in favour of such conjunct and confident Person; or by which such Person may claim as a Creditor in competition with the Creditors of the Debtor; or be saved from a demand for payment of any debt due, or performance of any obligation to the Debtor, or obtain any preference; or receive from the Debtor payment of any money in satisfaction of debt; such conveyance, heritable security, assignation, bond, bill, obligation, discharge, document and payment shall be null and void, in so far as prejudicial to the Creditors of the Debtor: Provided, That it shall be competent to the conjunct and confident Person to prove that the conveyances, securities, obligations, documents and payments hereinbefore enumerated were granted and made for a just price paid for the same at the time when they were so granted and made, or for a just debt subsisting when they were granted and made, or for a just, onerous and necessary cause at that time; and on its being so proved, such conveyances, securities, obligations, documents and payments shall be effectual to the conjunct and confident Person, provided the same be not challengeable on any other lawful ground.

Unless for a
just, onerous
and necessary
cause.

3.
Circum-
stances in
which a party
may challenge
the above
deeds and
acts.

And be it Enacted, That it shall be competent for any Creditor of the Debtor, whether his debt has been contracted before or after the granting or making of the conveyances, securities, obligations, documents and payments hereinbefore enumerated; or for the Interim Factor or Trustee on the sequestrated estate of the Debtor, to insist in

an Action for having the same declared null and void in manner herein-after provided; as also to appear and insist in the Action, as herein-after mentioned, although the original Pursuer may have died or abandoned the Action, in the same way as if the summons had been raised by such Creditor, Interim Factor or Trustee.

Compeerer
may insist
although
original Pur-
suer die.

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And be it Enacted, That the conveyances, securities, obligations, documents and payments hereinbefore enumerated, shall be presumed to have been granted and made after the insolvency of the Debtor, and without any just price paid, and without a just debt subsisting, and without a just, onerous and necessary cause at the time when the same were granted and made, provided the Pursuer of the Action, or any Creditor, or the said Interim Factor or Trustee, who shall compear, can show that his own debt, or the debt of any other Creditor is resting owing, and was subsisting when the several conveyances, securities, obligations, documents and payments before enumerated were granted or made; or when they were rendered complete by such act as may be requisite to render the same complete; or when diligence was executed on such conveyances, securities, obligations and documents; or when they were published in any register; or when they were produced in judgment; but it shall be competent for the conjunct and confident Person to prove that the Debtor was solvent at the times aforesaid, or that the conveyance, security, obligation, document or payment was granted and made for a just price paid, or just debt truly subsisting, or for a just, true and necessary cause at the time of the granting and making in manner before provided.

4.
Presumption
that deeds and
acts were after
Insolvency in
certain cir-
cumstances

25

And be it Enacted, That where any Creditor has, either before or after the said *First* day of *October*, executed a Summons of Adjudication, or a Summons of Ranking and Sale, or Letters of Inhibition, or any Diligence competent against the heritable estate of his Debtor; or where any Creditor has executed Arrestment, Poinding or any other Diligence competent to attach the moveable estate of his Debtor (provided that the Diligence be not by virtue of a decree under a Small Debt Act), and the Debtor has granted, or shall thereafter grant any conveyance of his heritable estate or security thereon, or any assignation, bond, bill, obligation, discharge, or any document as for money due, or pay money to or for any other Creditor in prejudice of the Creditor executing Diligence or Action, it shall be competent to such last-mentioned Creditor, and to every Creditor of the Debtor who might have had it in his power to obtain a *pari passu* preference with such Creditor, if such Diligence or Action had been carried on without delay, to pursue an Action on the said recited Act: And for the purposes of this Act, poiding shall be held to have been executed on the day immediately after the lapse of the charge.

5.
Provision as
to Alienations,
&c. after dili-
gence begun.

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6.
 Sheriff to have
 Jurisdiction as
 to Actions
 relating to
 moveables.

And be it Enacted, That on and after the said *First* day of *October*, every Sheriff within Scotland shall possess jurisdiction to judge and decide in all Actions under the said recited Act or this Act, concluding to have any payment of money, deed, obligation or other document hereinbefore enumerated regarding moveable effects, debts and sums of money (but not heritable estate) set aside; and the Sheriff Clerk and Messengers at Arms and Sheriff Officers in the several Sheriffdoms in Scotland shall have full power to act in their respective offices in relation to such processes.

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7.
 Mode in which
 Creditors are
 entitled to
 compare.

And be it Enacted, That at any time after the summons raised before the Court of Session or before the Sheriff, has been called in Court, any Creditor claiming a right to be ranked *pari passu* may lodge with the Clerk to the process a claim, setting forth the nature of his debt, the amount thereof, and the grounds on which it is founded; and he shall therewith produce the written evidence of his debt (if he any has), and if there be no objection to the contrary, he shall be conjoined as a Pursuer therein.

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8.
 Conclusions
 and proceed-
 ings in Actions
 as to heritage.

And be it Enacted, That where any summons shall be raised under the said recited Act or this Act to set aside any conveyance or security, or any deed or obligation in relation to an heritable estate, the Pursuer shall farther conclude that on the same being set aside the estate should be adjudged to belong to him and every Creditor who shall be included in the decree of division; that the estate should be sold, and decree of sale pronounced in favour of the Purchaser; that the decree of sale should have the effect of an irredeemable adjudication in his favour, and disencumber the estate of all securities contracted thereon by the Debtor, his Authors or Predecessors, and operate as an assignation thereof to the Purchaser, in so far as the securities can affect the estate contained in the decree of sale, and as a discharge to the Debtor of the debts and securities to the extent of the shares of the price paid to the respective Creditors (reserving their rights thereto in so far as relates to the Debtor *quoad ultra* as accords of law); that the Creditors should be bound to warrant their debts to that extent and their titles thereto, but not the validity of the Debtor's titles to the said estate; that on payment or consignment of the price the Purchaser should be discharged, and superiors ordained to enter him, and to grant charters to and infest him in the same; that the Creditors who shall be found entitled to compare should be ranked on the said estate according to their respective rights and interests, and that the said price should be divided among them accordingly; and the Lord Ordinary before whom such Action depends shall, in pronouncing decree of reduction, declare the decree to be available to all the Creditors of the Debtor who shall be included in the decree of division; and on decree of reduction being pronounced, the farther proceedings shall take place as in a process of ranking and sale.

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And

And be it Enacted, That where any summons shall be raised to set aside any deed, obligation or document as to any moveables, or any discharge of debt or document of debt, or any payment of money, the summons shall farther conclude that the moveables, debts or money should be adjudged to-belong to the Pursuer and to every other Creditor who shall be found entitled to claim a share thereof, according to their respective rights; that the moveables should be sold, and the price (or if the subject challenged be money) that the sum for which the Defender is accountable should be divided, as in a process of multiplepoining, among the Creditors, according to their respective rights; and the Judge before whom the Action depends shall, in pronouncing decree of reduction, declare the decree to be available to all the Creditors of the Debtor who shall be found entitled to claim a share thereof; and on decree of reduction being pronounced, the farther proceedings shall take place as in a process of multiplepoining.

9.
Conclusions
and proceed-
ings in Actions
as to move-
ables.

And be it Enacted, That in all questions of competition under the said Act and this Act, in case any Creditor hold any security for payment of his debt upon the Debtor's estate or effects, he shall deduct from his debt the amount or value of such security, and he shall be ranked for the balance only after such deduction, and receive payment accordingly: Provided, That he shall in no event draw more than full payment.

10.
In questions
of Ranking,
securities to
be deducted.

And be it Enacted, That if a Debtor shall after *the commencement of this Act* be apprehended or imprisoned on diligence for civil debt, he shall be held Notour Bankrupt at and from the date of such apprehension or imprisonment.

11.
Notour Bank-
ruptcy by ap-
prehension or
imprisonment.

And be it Enacted, That if a Debtor subject to the laws of Scotland shall be forth thereof, and be charged on induciæ of *Thirty Days*, at the Office of Edictal Citations of the Court of Session, to pay a civil debt amounting to not less than *Twenty Pounds*, and shall fail to pay the said debt within the days of charge, it shall be competent on expiry of the said days to denounce him insolvent at the said office in the same way as is hereinbefore provided for a Debtor within Scotland, and the registration of the execution of such denunciation within *Fifteen Days* from the date of such execution in the said Register of Notour Bankrupts, joined with insolvency, and also with an arrestment of his effects not loosed or discharged within *Fifteen Days* after the date of its execution, or with a poinding of his moveables, or with a decree of adjudication for payment or security of debt of any part of his estate, shall render him Notour Bankrupt as at the date of the said registration: And where he shall have abandoned his ordinary place of residence in Scotland for *Forty Days*, and has not some other known residence within Scotland, or has not left notice at his place of residence where he is to be found within Scotland, and he is not found,

12.
Mode of
rendering
Debtor forth
of Scotland
Notour
Bankrupt.

Absence
from Scotland,
how ascer-
tained.

there, he shall, on an execution of a Messenger or other competent Officer being returned to that effect, be held for the purposes of this Act to be forth of Scotland.

13.
Notour
Bankruptcy
by Sequestra-
tion.

And be it Enacted, That the awarding of Sequestration in terms of this Act shall render the Debtor Notour Bankrupt as at the date of the first deliverance on the Petition for Sequestration, without prejudice to such Debtor being held bankrupt, if he shall previously have been denounced, apprehended or imprisoned as aforesaid. 5

14.
Sequestration
of Estates of
Debtors
without their
consent.

And be it Enacted, That the Estates of every person who is a merchant, trader, manufacturer, banker, broker, warehouseman, wharfinger, underwriter, artificer, packer, builder, carpenter, shipwright, innkeeper, hotel-keeper, cattle dealer, grain dealer, dyer, printer, bleacher, fuller, calendarer, or who, either for himself or as agent or factor for others, seeks his living, or a material part thereof, by buying and selling, or by buying and letting for hire, or by the workmanship of goods or commodities, or by any of the said occupations in partnership or individually, or in gross or by retail, and the Estates of any company engaged in any of the said occupations shall in the said several cases be liable to Sequestration in terms of this Act without the consent of such person or company, provided that such person or company be Notour Bankrupt and has carried on business in Scotland in one or other of the said occupations, and either has or has had a place of business or dwelling-house in Scotland within *a Year* before the date of presenting the Petition for Sequestration: Provided farther, That it shall not be competent to sequester the Estates of any company incorporated or established by Act of Parliament or Charter without the consent of all the partners of such company, nor of the Estates of any person as a partner of such company, nor of an insurance company against fire, unless such person either consent, or unless his bankruptcy has been caused by the bankruptcy of such company; nor shall it be competent to sequester the Estates of any landholder or farmer as such unless he consent, or unless he be *bonâ fide* a dealer in cattle, which is not the produce of, nor grazed, nor worked on his farm, or a dealer in grain not produced thereon. 10 15 20 25 30

15.
Sequestration
of Estates of
Debtors with
their consent.

And be it Enacted, That Sequestration may be awarded of the Estates of any Debtor, subject to the laws of Scotland and holding Estates heritable or moveable within Scotland, provided that such Debtor shall petition for Sequestration, with the concurrence of one or more Creditors, qualified as hereinafter mentioned; and if the petition is not signed by the Debtor, a mandate by him, authorizing such petition, shall be therewith produced, although he be not Notour Bankrupt, nor be within any of the above descriptions, nor have carried on business, nor resided within Scotland for *a Year* prior to the date of the petition. 35 40

AND

AND whereas by the said Act made by the Parliament of Scotland in the year One thousand six hundred and ninety-six, it is declared, " That all and whatsoever voluntary dispositions, assignations or other deeds which shall be found to be made and granted directly or indirectly by the foresaid Dyvour or Bankrupt, either at or after his becoming Bankrupt, or in the space of Sixty Days of before, in favours of his Creditors, either for his satisfaction or further security in preference to other Creditors, to be void and null ;" and it is farther declared, " That all dispositions, heritable bonds or other heritable rights, whereupon infestment may follow, granted by the foresaid Bankrupts, shall only be reckoned, as to this case of Bankrupt, to be of the date of the Sasine lawfully taken thereon, but prejudice to the validity of the said heritable rights as to all other effects as formerly," and it is expedient to amend these provisions ; BE it therefore Enacted, That in questions arising upon the said Act or this Act, on and after the said *First day of October*, or which shall have arisen on the said recited Act previous to that day, all Dispositions, Conveyances, Adjudications in Implement, or other transfers of heritable estate, and all securities on which infestment may follow, shall be reckoned to be of the date of the registration of the Sasine, or of the registration of the Resignation ad Remanentiam expedite thereon (as the case may be) : Provided, That this shall be without prejudice to the validity or invalidity of the said Deeds in all other respects as heretofore.

And be it Enacted, That in questions arising on the said Act made in the year One thousand six hundred and ninety-six, or on this Act, on and after the said *First day of October*, or on the said Act of the year One thousand six hundred and ninety-six, before the said *First day of October*, all Assignations, Transfers, Retrocessions, Sales and Venditions of any moveable effects, debts, funds, ships, or any personal rights whatsoever, granted either absolutely or in security of the payment of debt, and to which intimation, delivery, registration or any Act, other than Sasine, is requisite to give effect, shall be reckoned to be of the date of the intimation, delivery, registration or other Act requisite for completing the same : Provided, That this shall be without prejudice to the validity or invalidity of such rights in all other respects as heretofore.

And be it Enacted, That it shall be competent for any Creditor, whether his debt has been contracted before or after the granting of the deeds, obligations, documents, rights and payments hereinbefore enumerated, or for the Interim Factor or Trustee on the sequestrated estate of the Debtor, to insist in an Action to have the same reduced as null and void ; and it shall be competent for any Creditor, or such Interim Factor or Trustee, to appear and insist in the said Action, as hereinafter mentioned, although the original Pursuer may have died or

16.

In questions under the Act 1696, and this Act, dispositions of and securities on heritable subjects to be held as of the date of the registration of the Sasine, or resignation ad remanentiam.

17.

Assignations, &c. to be held of the date of act of completion.

18.

Circumstances in which a party may challenge Deeds.

abandoned the Action, to the same effect as if the summons had been raised by such compeerer.

19.
Sheriff to have
Jurisdiction as
to Actions re-
lating to move-
ables, &c.

And be it Enacted, That on and after the said *First* day of *October*, every Sheriff within Scotland shall possess jurisdiction to judge and decide in all Actions under the said Act made in the year One thousand six hundred and ninety-six, or this Act, concluding to have any payment of money, deed, obligation or other document, as above enumerated, regarding moveable effects, debts and sums of money (but not heritable estate) set aside, as fully as he can judge and decide in any other Action presently by law competent before him; and the Sheriff-Clerk and Messengers at Arms and Sheriff-Officers in the several Sheriffdoms in Scotland, shall have full power to act in their respective offices in relation to such processes.

20.
Mode in which
Creditors are
entitled to
compear.

And be it Enacted, That at any time after the summons in any Action raised under the said Act made in the year One thousand six hundred and ninety-six, or this Act, before the Court of Session, or before the Sheriff, has been called in Court, any Creditor who claims a right to be ranked equally on the subject of the Action with the Pursuer thereof, may lodge with the Clerk to the process a claim, setting forth the nature and amount and grounds of his debt, and shall therewith produce the written evidence of his debt (if he any has); and if there be no objection to the contrary, he shall be conjoined as a Pursuer.

21.
Conclusions
and proceed-
ings in Actions
as to heritable
subjects.

And be it Enacted, That where any Action shall be raised under the said Act made in the year One thousand six hundred and ninety-six, or this Act, concluding to have any deed, conveyance, adjudication in implement of, or security over any heritable estate set aside, the Pursuer shall farther conclude that, on the same being set aside, such estate should be adjudged to belong to him, and every Creditor who shall be included in the decree of division; that they should be sold under the authority of the Court of Session; that the Creditors found entitled to compear should be ranked according to their respective rights and interests, and the price divided among them all, as in a process of ranking and sale: And the Lord Ordinary before whom the action depends shall, in pronouncing decree of reduction, declare the benefit of the decree to be available to all the Creditors of the Debtor, who shall be included in the decree of division; and on the decree of reduction being pronounced, the farther proceedings, to the effect of exhausting the remaining conclusions of the Action, shall take place as in a process of ranking and sale.

22.
Conclusions
and proceed-
ings in Actions
as to move-
ables, &c.

And be it Enacted, That where any Action shall be raised under the said Act made in the year One thousand six hundred and ninety-six, or this Act, concluding to have any written evidence, deed, obligation or document

document as to moveable effects, or any discharge of debt, or of debt, or any payment of money set aside, the Pursuer shall farther conclude that, on the same being set aside, the said effects should be adjudged to belong to him, and to every Creditor who shall be conjoined and
 5 found entitled to claim a share thereof, according to their respective rights; that the said effects should be sold, and the price, or (if the subject challenged be money) that the sum for which the Defender is accountable should be divided among the Creditors, according to their respective rights, as in a process of multiplepinding; and the Judge
 10 before whom the Action depends shall, in pronouncing decree of reduction, declare the benefit of the decree to be available to all the Creditors of the Debtor who shall be conjoined in the Action; and on the decree of reduction being pronounced, the farther proceedings for exhausting the remaining conclusions shall take place as in a process
 15 of multiplepinding.

And be it Enacted, That in all Competitions under the said Act, made in the year One thousand six hundred and ninety-six, or of this Act, if any Creditor hold a security for payment of his debt upon any part of the Debtor's estate or effects not falling under the Action, he
 20 shall deduct from his debt the amount or value of such security, and he shall be ranked for the balance only after such deduction, and receive payment accordingly; provided that he shall in no event draw more than full payment.

AND whereas by the said Act made in the year One thousand six
 25 hundred and ninety-six, it is declared, " That any disposition or other rights that shall be granted for hereafter for relief or security of debts to be contracted for the future, shall be of no force as to any such debts that shall be found to be contracted after the sasine or infestment following on the said disposition or right, but prejudice to the validity
 30 of the said disposition and right, as to other points, as accords;" and it is expedient to amend the same; BE it therefore Enacted, That the said Act, in so far as inconsistent herewith, shall be and the same is hereby repealed; and all Deeds whereby an Heritable Security is constituted, or by which it is competent to constitute an Heritable
 35 Security in payment of debt, and which are granted in security of the payment of money to be lent, or of any balance which may arise thereon after the date of such Deed (subject to the provisions hereinafter contained), shall be effectual to the extent hereinafter specified.

And be it Enacted, That all such Securities for payment of money
 40 to be lent, upon Cash-credit or Cash-account, or of any balance which may arise thereon after the date of such Security, shall be (subject to the provisions hereinafter mentioned) effectual to the extent hereinafter specified.

23.
In questions
of Ranking,
Securities to
be deducted.

24.
Competent to
grant Heri-
table Securi-
ties for pay-
ment of future
loans of
money, under
certain con-
ditions.

25.
Also on Cash-
credits to be
operated on
after their
date.

26.
On Bills, &c.

And be it Enacted, That all such Securities for payment of loans or advances of money to be made on Bills, Promissory Notes or other similar Obligations to be drawn, accepted or indorsed, or of any balance which may arise thereon after the date of such Security, shall be (subject to the provisions hereinafter mentioned) effectual to the extent hereinafter specified. 5

27.
And furnish-
ings of Goods.

And be it Enacted, That all such Securities for the price of Goods to be sold and delivered, or consigned on account-current or otherwise, or of any balance which may arise thereon after the date of such Security, shall be (subject to the provisions hereinafter mentioned) effectual to the extent hereinafter specified. 10

28.
And of relief
of cautionary
Obligations.

And be it Enacted, That all such Securities for the relief of any Person who shall become bound as Cautioner for money to be lent directly or by way of Cash-credit, Cash-account, Bills, Promissory Notes or otherwise as aforesaid, or for the payment of the price of Goods to be sold and delivered or consigned as aforesaid, after the date of the said Security, shall be (subject to the provisions hereinafter contained) effectual to the extent hereinafter specified. 15

29.
Provisions as
to Securities
for Cash-
credits, Bills
and cautionary
Obligations.

Provided always, and be it Enacted, That such Securities shall be effectual in the several cases before set forth to the extent only of the agreed on principal sum therein specified, with *Three Years'* interest from the dates of lending the said money; or retiring the said Bills, Promissory Notes or other similar Obligations; or from the dates when the price of the said Goods is payable; or from the date when the cautionary Obligation has been implemented; or such other dates as the Parties shall therein stipulate, at the rate of *Five* per centum in the year (or at such lower rate of interest as the Parties may therein specify): Or to the extent of such sum (not exceeding the said principal sum) with such interest as may be due, not exceeding *Three Years* from the said periods respectively, and as shall have been actually lent, either directly or on cash-credit or cash-accounts; or by retiring the said Bills and Promissory Notes and others; or by furnishing Goods; or in implement of the said cautionary Obligation: Provided, That in the registered Sasine the amount of the said principal sum and the rate of interest thereon shall be distinctly specified. 20 25 30 35

30.
Not to be
available after
publication of
Sequestration.

And be it Enacted, That if any Loan of Money shall be made, either directly, or on cash-credit or cash-account, or if any Bills, Promissory Notes or similar Obligations shall be drawn, accepted or indorsed, or any advances of money made thereon; or if any Goods shall be sold, delivered or consigned, after, in these several cases, the date of the publication in the Edinburgh Gazette, that Sequestration has been awarded of the estates of the granter of such Security, in terms

terms of an Act made in the present Session of Parliament, intituled, "An Act for regulating the Sequestration of the Estates of Bankrupts in Scotland;" such Security shall not be available as a security to the extent of the sums lent or advanced as aforesaid, or the price of the
 5 Goods sold, delivered or consigned after such publication.

And be it Enacted, That such Securities shall be effectual to secure any Balance which may ultimately be due in the several cases above provided, although the principal sum and interest thereon may have been at any time paid and satisfied: Provided, That in the course of
 10 the subsequent transactions there shall be a Balance of debt due, but not exceeding the principal sum and interest therein specified, as above provided.

AND whereas it is expedient to improve the form and to diminish the expense of the Diligence of the law in Scotland against the Persons and
 15 moveable effects of Debtors; BE it Enacted, That on and after the said *First day of October*, where an Extract shall be issued of a Decree or Act pronounced, or to be pronounced by the Court of Session, or by the Court of Commission for Teinds, or by the Court of Justiciary; or of any Deed, Decree-arbitral, Bond, Protest of a Bill, Promissory Note,
 20 Banker's Note, or other document on which execution may competently proceed, recorded in the books of Council and Session, or of the Court of Justiciary, the Extractor shall in terms of the Schedule (Number 4.) hereunto annexed (or as near to the form thereof as circumstances will permit), insert a Warrant to charge the Debtor or
 25 Obligant to pay the debt, or perform the obligation within the days of charge, and to arrest, poind, open shut places, and on Warrant of imprisonment being obtained (as hereinafter provided) to search for, take, apprehend and imprison the Debtor or Obligant until he obey the charge, and for that purpose to open shut places; which Extract shall
 30 be subscribed and prepared in other respects as Extracts are at present subscribed and prepared; and for which Extract no higher fees shall be exigible than those which are payable as by law established.

And be it Enacted, That it shall be lawful, by virtue of such Extract, to arrest, as if Letters of Arrestment on liquid grounds of debt, or Letters
 35 of Horning containing Warrant to arrest, had been issued under the signet.

And be it Enacted, That it shall be lawful by virtue of such Extract, to charge the Debtor or other Obligant therein mentioned, to pay the sums of money, or to perform the obligation therein specified, within the days of charge, from and after the date of charge, under pain of poinding and imprisonment; and the officer executing the same shall return an execution in which he shall specify the name and designation of the

31.
 Although in course of operation the Balance be extinguished, this not to affect the security as to the ultimate balance.

32.
 DILIGENCE.

Extracts of Court of Session, Teind Court and Court of Justiciary Decrees, to contain Warrant to arrest, charge, poind and imprison.

33.
 Competent to arrest.

34.
 Competent to charge.

Officer's Execution

Creditor, and of the Debtor or Obligant ; the date of the Extract ; the nature of the Decree or other document whereupon the Extract proceeds ; the amount of the sums of money, or the nature of the obligation in enforcement whereof the Extract has been issued ; the date of the execution ; the mode of execution ; and the days of charge. 5

35.
Competent to
pound.

And be it Enacted, That on the expiration of the days of charge, it shall be lawful, by virtue of such Extract, to pound the moveable effects of the Debtor, in payment of the sums of money therein mentioned, as if Letters of Pounding or Letters of Horning, containing Warrant to pound, had been issued, and for that purpose to open shut places. 10

36.
Execution to
be registered ;

And be it Enacted, That it shall be competent at any time within *Year and Day* after a charge has expired, to present such Extract and execution of charge to the Keeper of the General Register of Hornings at Edinburgh, and the Keeper shall thereupon record the execution in that register, and state therein the name and designation of the person 15 by whom the same was presented, and also the date of presentation ; which registration shall have the same effect as if the Debtor or Obligant had been denounced rebel in virtue of Letters of Horning, and the said letters, with the execution of charge and denunciation, had been recorded according to the forms now in use ; and shall have the effect 20 to accumulate the debt and interest into a capital sum, whereon interest shall thereafter become due.

and to
have the
effect of De-
nunciation
and to accu-
mulate in-
terest.

37.
Extract and
Execution
with Certifi-
cate of Regis-
tration to be
presented in
the Bill-
Chamber for
Warrant to
imprison.

And be it Enacted, That on the Execution being so recorded, the Keeper of the Register shall write upon the Extract and upon the Execution (if it be written on paper apart) a Certificate of the registration 25 thereof, in term of the Schedule (Number 5.) hereunto annexed, which he shall date and subscribe ; and if Warrant to imprison be required, a Writer to the Signet shall indorse and subscribe on the Extract a Minute in the form of the Schedule (Number 6.) hereunto annexed (or as near to that form as circumstances will permit) : And the Extract, 30 with the Execution and Certificate of registration, and indorsed Minute, shall be presented in the Bill-Chamber of the Court of Session ; and the Clerk thereof shall, if there be no cause to the contrary, write on the Extract this Deliverance, " Fiat ut petitur," and shall date and subscribe the same : And it shall be lawful, by virtue of the said 35 Extract and Deliverance, to search for, take, apprehend and imprison the Debtor or Obligant, and if necessary for that purpose, to open shut places ; and Magistrates and Keepers of Prisons are hereby required to receive into and detain in prison the Person of the Debtor or Obligant, to the same effect as if Letters of Caption had been issued under the signet, and till liberated in due course of law.

And

And be it Enacted, That where any Person has acquired right to an Extract of a Decree or Act as aforesaid, it shall be competent to him to present in the Bill-Chamber the Extract, with a Minute indorsed thereon, in the form of the Schedule (Number 7.) hereunto annexed (or as near thereto as circumstances will permit), subscribed by a Writer to the Signet, with the assignation, confirmation, or other legal evidence of such acquired right, praying for authority (as the case may be) to arrest, charge, poind the effects of, and imprison the said Debtor or Obligant, and open shut places; and the Clerk shall, if there be no cause to the contrary, write on the Extract this Deliverance, "Fiat ut petitur," and he shall date and subscribe the same, and date and indorse the same date on the documents produced, and subscribe with his initials the date so indorsed, and the Extract, with such Deliverance, shall be a Warrant to arrest, charge, poind, open shut places, search for, take, apprehend and imprison as aforesaid, at the instance of such Person.

38.
Execution at the instance of a Person acquiring right to Extract.

And be it Enacted, That nothing herein contained shall prevent any Person from obtaining Extracts, and also Letters of Horning, Poinding, and Arrestment, or Letters of Arrestment and Letters of Caption, according to the former law and practice, if he shall see fit to proceed in that way in place of in the manner hereby provided; but it is hereby declared, that in such case no part of the expenses thereof, except the expenses of the Extract, shall be exigible from the Debtor or Obligant or his estate, unless it be shown that it is incompetent to proceed in the way herein provided; and where an Extract has been issued before the said *First day of October*, it shall be competent for the Person in whose favour such Extract has been issued, or the Person having right thereto, to obtain an Extract in terms of this Act, or a Warrant subjoined to the former Extract, in terms of the said Schedule (Number 4.) and to prosecute Diligence thereon, agreeably to the provisions hereof.

39.
Letters of Horning may be issued as formerly, but no expenses exigible.
Extracts in terms of this Act may be obtained where Extracts issued prior to 1st October 1837.

And be it Enacted, That on and after the said *First day of October*, where an Extract shall be issued of any Decree or Act pronounced or to be pronounced by any Sheriff, or of any Deed, Decree-arbitral, Bond, Protest of a Bill, Promissory Note, Banker's Note or other document on which execution may competently proceed, recorded in the Sheriff Court books, the Extractor shall, in terms of the Schedule (Number 8.) hereunto annexed (or as near thereto as circumstances will permit), insert therein a Warrant, not only to arrest, charge and poind according to the present practice, but also for that purpose, if need be, to open shut places, and on Warrant to imprison being obtained (as hereinafter provided), to search for, take, apprehend and imprison the Debtor or Obligant until he pay the debt or perform the obligation in terms of the charge, and for that purpose to open shut places, which it shall be lawful to do; for which Extract no higher fees shall be exigible than

40.
Extracts of Sheriff's Decrees, &c. to contain Warrant to open shut places, charge and imprison.

those which are payable as by law established ; and where an Extract has been issued from the books of the Sheriff before the said *First* day of *October*, it shall be competent to obtain an Extract, in terms of this Act, or a Warrant subjoined to the former Extract in terms of the Schedule (Number 8.) and to prosecute diligence thereon agreeably to the provisions hereof. 5

41.

Execution to be registered, and to accumulate interest.

And be it Enacted, That the Officer executing the said charge shall return an execution, in which he shall particularly specify the name and designation of the Creditor and of the Debtor or Obligant, the date of the Extract, the nature of the Decree or other document whereupon the Extract proceeds, the amount of the sums of money or the nature of the obligation in enforcement whereof the Extract has been issued, the date of the execution, the mode of execution, and the days of charge : And it shall be lawful at any time within *Year and Day* after a charge has expired, to present the Extract and Execution to the Clerk of the Sheriff Court from which the Extract has been issued, and the Clerk shall thereupon record the Execution in the Particular Register of Hornings kept by him ; and he shall state in the said Register the name and designation of the person by whom the Extract and Execution were presented, and the date of presentation, which registration shall have the effect to accumulate the debt and interest into a capital sum, whereon interest shall thereafter become due. 10 15 20

42.

Lawful to imprison by such Warrant.

And be it Enacted, That on the Execution being so recorded, the Clerk shall write upon the Extract and upon the Execution (if it be written on paper apart) a Certificate of the registration thereof, which he shall date and subscribe in terms of the Schedule (Number 9.) hereunto annexed, or as near thereto as circumstances will permit ; and if Warrant to imprison be desired, the Creditor or a Procurator shall indorse and subscribe on the said Extract a Minute in the terms of the Schedule (Number 10.) hereunto annexed (or as near to that form as circumstances will permit), and the Clerk shall, if there be no lawful cause to the contrary, write on the Extract this Deliverance, "*Fiat ut petitur*," and shall date and subscribe the same ; and it shall be lawful, by virtue of the Extract and Deliverance, to search for, take, apprehend, imprison, and if necessary for that purpose, to open shut places as aforesaid ; and Magistrates and Keepers of prisons are hereby required to receive into and detain in prison the person of the Debtor or Obligant mentioned in the Extract, till liberated in due course of law. 25 30 35

43.

Execution at the instance of a person acquiring right to the Extract.

And be it Enacted, That where any Person has acquired right to any Extract of a Decree or Act of the Sheriff, it shall be competent to him to present to the said Sheriff-Clerk the Extract, with the Execution of charge (if a charge shall have been given), and a Minute indorsed on the Extract in the form of the Schedule (Number 11.) hereunto annexed 40

annexed (or as near thereto as circumstances will permit), subscribed by him or a Procurator of Court, with the assignation, confirmation or other legal evidence of the acquired right, praying for authority (as the case may be) to arrest, charge, poind, open shut places and imprison ;
 5 and the Clerk shall, if there be no lawful cause to the contrary, write on the Extract this Deliverance, " Fiat ut petitur," and he shall date and subscribe the same, and indorse the same date on the documents produced, and subscribe with his initials the date so indorsed ; and the
 10 Extract, with the said Deliverance, shall be a Warrant to arrest, charge, poind, search for, take, apprehend, open shut places, and imprison as aforesaid, at the instance of such Person.

And be it Enacted, That where a Debtor or Obligant is, or his moveables are, within the territory of any other Sheriff than the Sheriff from whose books such Extract has been lawfully issued, it shall be com-
 15 petent to present the Extract in the Bill-Chamber of the Court of Session, or to the Sheriff within whose jurisdiction the Debtor or Obligant is, or his moveables are, with a subscribed Minute indorsed thereon, in terms of the Schedule (Number 12.) hereunto annexed (or as near thereto as circumstances will permit), praying for the authority
 20 and concurrence of the Lords of Council and Session, or of the said Sheriff (as the case may be), to arrest, charge and poind the moveables of the said Debtor or Obligant, and to open shut places, all in terms of the Warrant in the said Extract ; and if there be no lawful cause to the contrary, the Clerk in the Bill-Chamber, or the said Sheriff (as the case
 25 may be), shall grant authority accordingly, by writing this Deliverance, " Fiat ut petitur," and dating and subscribing the same ; and it shall thereupon, for that purpose, be lawful to arrest, charge, poind and open shut places.

44.
 Warrant of concurrence from the Bill-Chamber, or from other Sheriffs to charge, arrest and poind.

And be it Enacted, That if the Debtor or Obligant shall have been
 30 charged on the original Warrant contained in such Extract, and the Execution be recorded in the books of the Sheriff from which the Extract was lawfully issued ; or if the Debtor or Obligant shall have been charged on a Warrant of concurrence by a Sheriff, (in which case the Execution shall be recorded in the books of the concurring Sheriff,
 35 and shall accumulate interest as aforesaid), it shall be competent to present the Extract and Execution with the Certificate of registration, and a Minute in terms of the said Schedule (Number 12.) indorsed thereon, either in the Bill-Chamber, subscribed by a Writer to the Signet, or to the concurring Sheriff, or to any other Sheriff within whose
 40 jurisdiction the Debtor or Obligant is, subscribed by a Procurator of Court, praying for authority to imprison as aforesaid ; and if there be no cause to the contrary, the Bill-Chamber Clerk or Sheriff (as the case may be) shall grant authority accordingly by writing thereon this Deliverance, " Fiat ut petitur," and dating and subscribing the same ; and

45.
 Warrant of concurrence to imprison.

it shall thereupon be lawful to open shut places, search for, take, apprehend and imprison in manner hereinbefore provided.

46.
ARREST-
MENTS.

Warrant to
arrest may be
introduced
into Sum-
monses before
the Court of
Session.

AND whereas it is expedient to amend the Law as to Arrestments for payment or in security of payment of debt, and to regulate the rights of Creditors on the arrested fund ; BE it therefore Enacted, That on and after the said *First* day of *October*, it shall be lawful to insert in Summonses raised before the Lords of Council and Session, concluding for payment of money, a Warrant (or Will) to arrest the moveables, debts and money belonging or owing to the Defender until caution be found acted in the books of Council and Session, that the same shall be made forthcoming a . accords of law ; and it shall be lawful to Writers to the Signet to subscribe, and to the Keeper thereof and his Deputes to affix the signet to such Summonses, without any other authority than this Act. 5 10

47.
Arrestment
may be exe-
cuted before
executing the
Summons, but
the Summons
must be exe-
cuted and
called within
a limited
period.

And be it Enacted, That by virtue of such Warrant of Arrestment, it shall be competent, before executing the Warrant of Citation, to arrest the moveables, debts and money belonging or owing to the Defender until caution be found as aforesaid ; and such Arrestment shall be effectual, provided the Warrant of Citation shall be executed against the Defender within *Twenty* Days after the date of the execution of the Arrestment, and the Summons called in Court within *Twenty* Days after the Diet of Compareance ; or if the Diet of Compareance fall within the vacation, provided the Summons be called on the first calling day next after the said Diet of Compareance ; and if the Warrant of Citation shall not be executed, and the Summons called in manner above directed, the Arrestment shall be of no effect whatever ; without prejudice to the validity of any subsequent Arrestment duly executed in virtue of the said Warrant. 15 20 25

48.
Arrestments
against per-
sons furth of
the Kingdom,
to be executed
at the Record
Office.

And be it Enacted, That on and after the said *First* day of *October*, it shall not be competent to execute any Arrestment, as in the hands of a Person furth of Scotland, by service at the market-cross of Edinburgh and pier and shore of Leith, but such Arrestment shall be executed by delivery of a Schedule of Arrestment at the Record Office of Citations in the Court of Session, which delivery shall be made and the Schedule registered and published in the same manner as charges are directed to be registered and published by an Act passed in the sixth year of the reign of his late Majesty King GEORGE the Fourth, intituled, " An Act for the better regulating of the Forms of Process in the Courts of Law in Scotland : " Provided, That such Arrestment shall not interpel such Person or his Agent from paying the debt due by him to his Creditor, unless proof be made that he or the Agent was previously to the payment in the knowledge of such Arrestment having been used. 30 35

6 Geo. 4,
c. 120.
Not to interpel
them from
paying unless
aware of the
Arrestment.

And

And be it Enacted, That where a Creditor who shall have executed an Arrestment within *Sixty Days* before or within *Four Months* after the Notour Bankruptcy of his Debtor shall raise an action in respect of such Arrestment, it shall be lawful for any Creditor of such Debtor
 5 (whether such Creditor has executed Arrestment or not), within *Four Months* after the date of such Notour Bankruptcy, to lodge a claim in such Action, with his grounds of debt (if he any has); and such Creditor shall, if there be no lawful objection to the contrary, be
 10 one Arrestment had been executed by them at one and the same time as hereinbefore provided : Declaring, That the arresting Creditor shall be preferred for all or such part of his expenses of the Arrestment and of the Action as shall be just.

49.
 Creditors may in any Action by an arresting Creditor, claim within *Four Months* after a first Notour Bankruptcy, and be ranked *pari passu*.

And be it Enacted, That where an Arrestment shall have been
 15 executed, either within *Sixty Days* before or within *Four Months* after such Notour Bankruptcy, it shall be competent for any Creditor of the Debtor to execute within the said *Four Months* a Summons of Multiplepounding in the name of the Arrestee, or of the arresting Creditor (if
 20 he shall have obtained payment) or other Person in whose name it may be competently done, or any other competent action in respect of such Arrestment; and every Creditor who shall execute such Summons or
 25 Action, or lodge a Claim, with his grounds of debt (if he any has), in the hands of the Clerk of Court within the said *Four Months*, shall be ranked equally as aforesaid on the fund with the said arresting Creditor, or be entitled to demand from him, if he shall have received
 payment, a rateable share of the fund, after allowing out of the fund such expenses as the arresting Creditor may lawfully be entitled to.

50.
 Or Creditors may raise Multiplepounding in name of Arrestees, and claim within *Four Months* after Notour Bankruptcy.

And be it Enacted, That Arrestments after the expiration of *Four Months* from such Notour Bankruptcy shall not compete with any
 30 Arrestment used within *Sixty Days* before or *Four Months* after such Bankruptcy, but shall have such preference as they were entitled to by the former law and practice.

51.
 Creditors after *Four Months* to be ranked as formerly.

And be it Enacted, That where a Debtor shall, after expiration of the said *Four Months*, be rendered a second time Notour Bankrupt,
 35 the same rules which are hereinbefore provided in relation to the first Notour Bankruptcy, shall in all competitions among Creditors arresting, claiming or raising action in regard to any funds or effects arrested, take place and receive effect within *Sixty Days* before and *Four Months* after the second Notour Bankruptcy; provided that the second
 40 Notour Bankruptcy shall have no effect on any competition as to funds or effects arrested within *Sixty Days* before or within *Four Months* after the first Notour Bankruptcy; and the same rules shall receive effect where any subsequent Notour Bankruptcy shall take

52.
 Same rules to apply in a second or subsequent Bankruptcy.

place on the expiration of *Four Months* from the immediately preceding Bankruptcy: Provided, That nothing herein contained shall affect any competition as to any Arrestment which may have arisen or shall arise under any law existing prior to the said *First day of October*, or the rules established by an Act passed in the present Session of Parliament, intituled, “An Act for regulating the Sequestration of the Estates of Bankrupts in Scotland.” 5

53.
Securities to
be deducted,

And be it Enacted, That in all questions of competition, if any Creditor shall hold a Security for payment of his debt upon the Debtor's estate, he shall deduct from the debt the amount or value of such Security, and he shall be ranked for the balance only after such deduction: Provided, That he shall in no event draw more than full payment. 10

54.
Arrestments
of Ships.

And be it Enacted, That the same Rules which are herein made in relation to Arrestments and the ranking thereof shall have effect in regard to Arrestments of Ships executed within *Sixty Days* before or *Four Months* after the Notour Bankruptcy of the Owners of such Ships. 15

55.
Lord Ordinary
in the Outer-
house may
recall or re-
strict Arrest-
ments subject
to review.

And be it Enacted, That on and after the said *First day of October* it shall be competent to the Lord Ordinary in the Court of Session before whom any Summons containing Warrant of Arrestment shall be enrolled as Judge therein, or before whom any Action, on the dependence whereof Letters of Arrestment have been executed, has been or shall be enrolled as Judge therein, on the application of the Debtor or Defender by Petition duly intimated to the Creditor or Pursuer, to recall or to restrict such Arrestment, on caution or without caution, and dispose of the question of Expenses as to the Lord Ordinary shall appear just: Provided, That his deliverance shall be subject to the review of the Inner-house, by a reclaiming Note duly lodged within *Ten Days* from the date of the said Order; and that nothing herein contained shall affect the jurisdiction of the Lord Ordinary on the Bills, or of the Judge Ordinary as to recalling or restricting Arrestments according to law as heretofore established. 20 25 30

56.
Arrestments
to prescribe in
Three Years.

And be it Enacted, That Arrestments executed on or after the said *First day of October* upon liquid Obligations shall prescribe on the expiration of *Three Years* from the date of the execution thereof; and Arrestments executed on or after the said *First day of October* on the dependence of Actions shall prescribe on the expiration of *Three Years* after the date of the final Decree in such Actions, if the Arrestments are not insisted in within the said respective periods. 35 40

57.
POINDINGS.

AND whereas it is expedient to regulate the diligence of Poining and the rights of Creditors on the poinded effects; BE it therefore Enacted, That

189

That on and after the said *First* day of *October*, where an Officer of the law shall proceed to point moveable effects, he shall, if required, conjoin in the pointing any Creditor of the Debtor who shall exhibit and deliver to him a Warrant to point; and on the effects being
 5 pointed, the Officer shall cause them to be valued by *Two* Valuators, and one valuation shall be sufficient.

Compearing
Creditors to
be conjoined,
and pointed
Effects to be
valued.

And be it Enacted, That the Officer shall leave the pointed effects with the Person in whose possession they were when pointed; and he shall deliver to the Possessor a Schedule specifying the pointed effects,
 10 and at whose instance they were pointed, and the value thereof.

58.
Effects to be
left with, and
Schedule given
to the Pos-
sessor.

And be it Enacted, That the Officer shall within *Eight* Days after the day on which the Pointing was executed (unless cause shall be shown why the same could not be done within the period of *Eight* Days), report the execution thereof to the Sheriff, in which execution he shall
 15 specify the circumstances connected with the Pointing, and particularly the name and designation of the Creditor at whose instance the effects were pointed, the effects pointed, the value thereof, the names and designations of the Valuators, the Person in whose hands they were left, and the delivery of the Schedule as aforesaid; which execution shall be
 20 subscribed by him and by *Two* Valuators, who shall also be witnesses to the pointing, without the necessity of other witnesses.

59.
Officer to
report Point-
ing within
Eight Days.

And be it Enacted, That on the execution being reported, the Sheriff shall, if necessary, give orders for the security of the moveables; and if they be of a perishable nature, for the immediate disposal thereof, under
 25 such precautions as to him shall seem fit; and if not so disposed of, and if no cause be shown to the contrary, he shall, if required, grant Warrant to sell them by public roup, at such time and at such place, and to publish such Notice of the sale, and offer them at such upset price, and at the sight of such Person as Judge of the roup, (with power to such Person
 30 to diminish the upset price to a certain extent, in the event of the upset price not being offered,) as may appear to the Sheriff most expedient for all concerned: Provided, That (excepting in the case of perishable effects) the sale shall not take place sooner than *Eight* Days, nor at a longer period than *Twenty* Days after the date of the publication of the
 35 said Notice of sale; and the Sheriff shall order a copy of the Warrant of sale to be served on the Debtor and on the Possessor of the pointed effects, if he be a different person from the Debtor, at least *Six* Days before the date of the sale.

60.
Sale to be ad-
vertised; and
notice to the
Debtor.

And be it Enacted, That the pointed moveables shall be offered for sale, and sold as ordered; but if no Offerer appear, the effects, or such part as shall satisfy the debt, interest and expenses due to the pointing Creditor and conjoined Creditor, shall be delivered by the Judge of the

61.
Effects to be
sold or de-
livered to
Pointing
Creditors.

roup to the said pointing Creditor and conjoined Creditor, or to his or their authorized Agent, subject to the claims of other Creditors in manner hereinafter provided.

62.

Report and
Price to be
lodged.

And be it Enacted, That on the moveables being sold or delivered as aforesaid, the Judge of the roup shall within *Eight* Days after the date of the sale make a Report to the Sheriff of the said sale or delivery; and if the effects shall have been sold, he shall also, within the said space of *Eight* Days, lodge with the Sheriff-Clerk the Roup-rolls, or certified copies thereof, and an account of the sum arising from, and of the expenses of the sale, which sum he shall, within the said *Eight* Days, lodge in the hands of the Sheriff-Clerk; and the said sum, after deduction of lawful charges, shall, if no cause be shown to the contrary, be ordered by the Sheriff to be paid to the pointing Creditor and conjoined Creditor (provided the amount does not exceed the amount of the debt, interest and expenses), but subject to the claims of other Creditors in manner hereinafter provided; and the Report and relative Documents, when lodged, shall be patent to all concerned, on payment of a fee of *One Shilling* only.

63.

Creditors en-
titled to pur-
chase.

And be it Enacted, That where any effects are exposed to sale as aforesaid, it shall be lawful for any Creditor to purchase the same.

64.

Unlawful In-
tromitter liable
to imprison-
ment and in
Double the
appraised
value.

And be it Enacted, That if any Person shall unlawfully intromit with or carry off the pointed effects to disappoint the pointing, he shall be liable, on summary complaint to the Sheriff of the county where the effects were pointed, or where he is domiciled, to be imprisoned until he restore the effects, or he shall be liable in *Double* the appraised value, which may be recovered by a Petition to the Sheriff of the county within which the effects were pointed, or within which the Party so intromitting or carrying off is domiciled, or by an ordinary Action before the Court of Session at the instance of the pointer, subject to the claims of other Creditors, in manner hereinafter provided.

65.

Pointing with-
in *Sixty* Days
before, or
Four Months
after first
Notour Bank-
ruptcy to give
no preference;
but Creditors
claiming with-
in the *Four*
Months to
be ranked
equally.

And be it Enacted, That on and after the said *First* day of *October*, where a Debtor is rendered Notour Bankrupt, Pointing executed within *Sixty* Days before, or within *Four* Months after such Bankruptcy, shall not give a preference to the pointing Creditor for his debt; and every Creditor of the Debtor who shall within the said *Four* Months make a claim or raise an action in manner hereinafter provided, shall be ranked equally (or *pari passu*) in proportion to his debt and interest thereof on the pointed effects, or *Double* the appraised value or the price (as the case may be), as if one Pointing had been executed by them all at one and the same time, after deduction of the expenses of the Pointing, which shall be paid out of the fund to the pointing Creditor preferably.

And

66.

Competing
Creditors may
either lodge
Claim, or
raise Action.

And be it Enacted, That where any Creditor shall have executed a Poinding within *Sixty* Days before, or *Four* Months after such Notour Bankruptcy, and the effects have not been delivered, nor the price, nor *Double* the appraised value thereof paid to him, any other Creditor (whether he hold liquid grounds of debt or not, and whether he has executed Poinding or not,) may, within *Four* Months after such Bankruptcy, lodge with the Sheriff-Clerk a claim in the Poinding, with his grounds of debt (if he any has), setting forth the amount of his debt and interest, and craving to be ranked on the said effects, or *Double* the appraised value or price thereof (as the case may be); or if any process be depending in relation to the said effects, or *Double* the appraised value, or the price, before delivery or payment as aforesaid, he may lodge in such process a similar claim, with his grounds of debt (if he any has) within the said period of *Four* Months; and if the effects have been delivered, or *Double* the appraised value, or the price paid to the poinding Creditor, such other Creditor may, within the said *Four* Months, execute a Summons of Multiplepoinding in the name of such poinding Creditor, or any person in whose name it may be competent to do so, or execute any other competent Summons, in order that the said effects, or *Double* the appraised value or price, may be divided equally among the Creditors; and in the said several cases, the Creditors shall, if there be no cause to the contrary, be ranked equally as aforesaid on the said effects, or on *Double* the appraised value, or on the price (as the case may be), after deduction of the expenses of the Poinding, which shall be paid out of the fund to the poinding Creditor preferably.

67.

Pointings
after *Four*
Months to be
ranked as
formerly.

And be it Enacted, That Poindings, after the expiration of *Four* Months from such Notour Bankruptcy, shall not compete with any Poinding executed within *Sixty* Days before, or *Four* Months after the said Bankruptcy, but shall have such preference as they were entitled to by the former law and practice.

68.

Same Rules
as in a first
to apply in a
second or
subsequent
Bankruptcy.

And be it Enacted, That where a Debtor shall, after the expiration of the said *Four* Months, be rendered a second time Notour Bankrupt, the same Rules which are hereinbefore provided in relation to the first Notour Bankruptcy, shall, in all competitions among Creditors poinding, claiming, or raising action in regard to any effects poinded within *Sixty* Days before, or within *Four* Months after such Bankruptcy, take place and receive effect: Provided, That the second Notour Bankruptcy shall have no effect on any competition as to the effects poinded within *Sixty* Days before, or within *Four* Months after the first Notour Bankruptcy; and the same Rules shall also receive effect where any subsequent Notour Bankruptcy shall take place after the expiration of *Four* Months from the immediately preceding Notour Bankruptcy: And nothing herein contained shall affect any competition as to any Poinding

which may have arisen or shall arise under any law existing prior to the said *First day of October*, or any Rules established by an Act passed in the present Session of Parliament, intituled, "An Act for regulating the Sequestration of the Estates of Bankrupts in Scotland."

69.
Securities to
be deducted.

And be it Enacted, That in all questions of competition of Poindings, if any Creditor hold a Security for payment of his debt upon the Debtor's estate, he shall deduct from his debt the amount or value of such Security, and he shall be ranked for the balance only after such deduction, and receive payment accordingly: Provided, That he shall in no event draw more than full payment.

70.
Act not to
affect Land-
lords' hypo-
thec.

And be it Enacted, That nothing herein contained shall affect the Landlords' hypothec for rents, or any hypothec known in law.

71.
INHIBITIONS.
Letters of In-
hibition may
be in the
form of the
annexed Sche-
dule.

AND whereas it is expedient to improve the law as to the diligence of Inhibition; BE it therefore Enacted, That on and after the said *First day of October*, it shall be competent to Writers to the Signet to subscribe, and to the Keeper of the Signet to affix the signet to Letters of Inhibition, in the form of the Schedule (No. 13.) hereunto annexed (or as near to that form as circumstances may permit), setting forth the name and designation of the Complainer, the nature and tenor of the Document of debt or obligation, or of the Interlocutor or decree in respect whereof, or of the Summons on the dependence whereof the Letters are raised, and the name and designation of the Person against whom the Letters are directed, and concluding with a Warrant to inhibit the Debtor personally, or at his dwelling-place, if within Scotland, and if furth thereof, by delivery of a copy of the Letters of Inhibition at the Record Office of the Keeper of the Records of the Court of Session, that he in no way convey, burden or put away any of his lands, or other heritable rights or subjects, or uplift or assign any heritable debts, or contract or take on debts, or grant bonds or other securities therefor, or do any other act or deed whereby his lands or other heritable subjects or rights may be burdened, affected or attached, or the Complainer prevented from recovering out of them payment of the sums of money mentioned in the said Letters.

72.
Competent to
insert a War-
rant for Inhi-
bition in Sum-
monses raised
before the
Court of Ses-
sion.

And be it Enacted, That on and after the said *First day of October*, it shall be competent to Writers to the Signet to subscribe, and to the Keeper of the Signet to affix the signet to any Summons raised before the Lords of Council and Session, containing a Warrant of Inhibition to the effect aforesaid, in the form of the Schedule (No. 14.) hereunto annexed (or as near to that form as the circumstances may permit); and it shall not be necessary that any Warrant shall have been obtained from the Lords of Council and Session in the Bill-Chamber, to the effect of issuing such Summons; and such Warrant for Inhibition shall

No Bill or
Warrant re-
quisite.

be

be as effectual as if Letters of Inhibition had been raised on the dependence of such Summons: Provided, That such Warrant shall be executed either at one and the same time with executing the Warrant of Citation, or after the execution of such Citation, and that the Execution of the said Warrant of Inhibition shall be registered in manner hereinafter provided.

And be it Enacted, That after the said *First day of October*, it shall not be requisite to execute Letters of Inhibition, or Summons containing Warrant for Inhibition, by publication thereof at the Market-cross of any burgh, or pier and shore of Leith, or to return an execution that publication thereof has been so made: Provided that where the Debtor or Defender is furth of Scotland, the same shall be executed at the said office of Citations in terms of law.

73.
Charge to the
Liesges by pub-
lication at the
Market-cross,
Pier and Shore
dispensed
with.

And be it Enacted, That after the said *First day of October*, in place of recording a full copy of the Letters of Inhibition, or of the Summons containing Warrant of Inhibition, and the execution thereof, within *Forty Days* after the execution thereof, it shall be sufficient, at any time after such Letters or Summons shall have been executed, to record the execution thereof in the General Register of Inhibitions at Edinburgh, or in the particular Register of Inhibitions of the county wherein the Debtors or Defenders estates are situated; in which execution there shall be set forth the name and designation of the Creditor or Pursuer at whose instance the Letters or Summons have been raised, the date of signing, the name and designation of the Debtor or Defender against whom they are directed, the description of the Document or decree in respect whereof, or the Summons on the dependence of which the Letters have been raised, the amount of the debt contained in the said Letters or Summons, the mode of execution, and the date thereof; and the Keeper of the Register shall state therein the name and designation of the person by whom the same was presented, and the date of presentation; and shall write upon the Letters or Summons, and on the Execution, (if it be written on paper apart) a Certificate of the registration thereof, which he shall date and subscribe in terms of the Schedule (Number 15.) hereunto annexed; and on the execution being so recorded, the Inhibition shall have effect from the date of such registration; and the registration of the execution shall be as effectual as if the said letters and summons had been fully recorded.

74.
Registration
of the Letters
and Summons
and Execu-
tions dis-
pensed with;
and Registra-
tion of Exe-
cution suffi-
cient.

And be it Enacted, That such Letters of Inhibition or Summons, and registration of the execution, shall not be effectual as to acquirenda after the date of the said registration, but only as to such heritable estate or debts to which the Debtor or Defender shall have obtained right before the date of registration as aforesaid.

75.
Inhibition not
to have effect
as to acqui-
renda.

76.

Inhibition to
prescribe after
Five Years
from the date
of registration,
or of decree,
or of the debt
being due.

And be it Enacted, That on and after the said *First* day of *October*, every Inhibition executed, by virtue of Letters of Inhibition, in respect of any debt or obligation which at the date of the execution shall be due or prestable, shall prescribe on the expiration of *Five Years* after the date of the said registration, unless the Inhibition shall within the said period be insisted in; and every Inhibition on the dependence of any Summons, or by virtue of any Summons containing Warrant of Inhibition, shall prescribe on the expiration of *Five Years* after the date of the final Decree pronounced in the process following thereon, unless the Inhibition be lawfully insisted in within the said period; and every Inhibition in respect of any debt or obligation which at the date of the execution of the Inhibition is due or prestable at any future period, or whereof the payment or performance is dependent on any condition or contingency, shall prescribe on the expiration of *Five Years* after the date when the debt or obligation shall be payable or prestable, or the condition purified, unless the Inhibition be lawfully insisted in within the said period: Provided, That it shall be competent at any time to continue or to renew the effect of the Inhibition for the farther space of *Five Years*, by of new executing and registering the Letters or Summons containing Warrant of Inhibition, in the same manner as if the Letters and Summons had been for the first time executed and registered.

But to be re-
newable by
executing and
registering of
new.

77.

Lord Ordinary
in the Outer-
house and in
the Bill-
Chamber to
have power to
recall or re-
strict Inhibi-
tions subject
to review.

And be it Enacted, That on and after the said *First* day of *October*, it shall be competent to the Lord Ordinary in the Outer-house of the Court of Session, before whom any Summons containing Warrant of Inhibition shall be enrolled as Judge therein, and which has been executed and registered as aforesaid; or before whom any action, on the dependence whereof Letters of Inhibition have been executed and registered, has been or shall be enrolled as Judge therein; and it shall also be competent to the Lord Ordinary on the Bills, during vacation, in either of the above cases, or where Letters of Inhibition have been raised, executed and registered on the dependence of any action before any inferior court, on the application of the Debtor or Defender, duly intimated to the Creditor or Pursuer, to recall or to restrict the Inhibition, on caution or without caution, as to the Lord Ordinary in the Outer-house, or (as the case may be) to the Lord Ordinary on the Bills, shall appear just; and to order the registration of the Inhibition either to be cancelled, or a marking made on the margin of the register where the Inhibition is recorded, that the same is recalled or restricted (as the case may be); and this order shall be as effectual as if it had been pronounced by the Inner-house of the Court of Session: Provided, That it shall be subject to the review of the Inner-house by a reclaiming Note duly lodged within *Ten Days* from the date of the said order.

AND

AND whereas it is expedient to regulate the law as to Adjudications for payment, or in security of debts, and the rights of Creditors in competition, to shorten the time of redemption, and to improve the forms of charges against heirs, in that part of Great Britain called Scotland; BE
5 it therefore Enacted, That on and after the said *First day of October*, it shall be lawful to Writers to the Signet to subscribe, and to the Keeper of the Signet to affix the signet to any Summons of Adjudication for payment, or in security of debt, without the necessity of a Bill being presented in the Bill-Chamber of the Court of Session, and
10 without a Warrant passing the Bill, or authorizing such Summons to be issued; and such Summons, when duly subscribed and signeted, shall be a sufficient warrant for citation, and for all other lawful proceedings consequent thereon.

78.
ADJUDICATIONS.

No Bill necessary to authorize a Summons of Adjudication for Debt.

And be it Enacted, That on and after the said *First day of October*,
15 in place of the form now in use under the provisions of an Act of the Parliament of Scotland, passed in the year One thousand six hundred and seventy-two, intituled, "An Act anent Adjudications," the Pursuer may, in any Summons of Adjudication for debt, conclude that the heritable estate belonging to the Defender, specified in the
20 Summons, and all his other lands and heritages, with all right, title and interest, writs, title-deeds and securities thereof, should be adjudged to belong to the Pursuer, and to all the Creditors who shall be conjoined, in manner hereinafter provided, as Pursuers heritably, but under reversion as hereinafter provided, in security and for payment of
25 the principal debt or debts due to him or them, with interest thereon, expenses of process and dues of extract (to be accumulated into a principal sum as at the date of the decree or decrees respectively to be pronounced); and in security and for payment of the interest of such accumulated sum during the not-redemption, and of all necessary ex-
30 penses; as also that on the expiration of the legal term of redemption, decree should be pronounced declaring it expired, and the subjects to belong absolutely to the Pursuer; or alternatively, that they should be sold, all as hereinafter provided: Provided, That it shall not be necessary that the Pursuer shall conclude alternatively for a special
35 Adjudication of the Defender's heritable subjects; and the said last-recited Act, in so far as the same is inconsistent with this Act, shall be and is hereby repealed.

79.
Pursuer may conclude for general Adjudication, (without a special Adjudication) and for Decree of Expiry of Legal.

And be it Enacted, That on such Summons of Adjudication being executed, it shall, if the diet of comparance fall within the time when
40 the Court of Session is sitting, be called agreeably to the existing practice; but if the diet of comparance fall within the vacation, the Summons may be called on one of the days appointed as box-days, provided the box-day be on or after the diet of comparance; and if the diet of comparance fall on a day subsequent to the box-days, or

80.
Summons to be called, according to existing practice, during Session; and on the Box-days during Vacation.

if the Summons has not been called at the box-day, it shall be called on the *First* calling day of the ensuing session.

81.

Defender to lodge Defences, if he any has, within a limited period.

Intimation of the Summons, &c. to be made.

And be it Enacted, That on such Summons of Adjudication being called during Session, if no appearance be made by the Defender, or if appearance has been made and the time for lodging defences has expired without defences being lodged, the Summons may be enrolled before one of the Lords Ordinary in the Outer-house, who shall order intimation in manner hereinafter provided; and if appearance be made, the Defender shall lodge Defences (if he any has) agreeably to the existing practice; and the Summons and Defences may be enrolled before one of the Lords Ordinary, who shall hear parties thereon; and if no cause be shown to the contrary, he shall appoint intimation to be made in the Minute-book of the Court of Session, on the walls of that Court, *Once* in the Edinburgh Gazette, and at least *Once* in each week for the space of *Three Weeks* in such newspaper or newspapers as he shall see fit that the said Summons has been raised, specifying the name of the Lord Ordinary before whom the same has been enrolled and the Clerk thereto, and of the Pursuer and Defender, in order that any other Creditors of the Defender may appear and be conjoined as Pursuers in manner hereinafter provided.

82.

If Defences due, or Summons called in Vacation, Defences to be lodged at particular times.

Intimation to be made.

And be it Enacted, That if the Summons has been called during Session, but Defences do not fall to be lodged till the first box-day in the ensuing vacation, and if no Defences shall be then lodged, or if the Summons be called at the first box-day during the vacation, and no appearance be then made for the Defender, the Lord Ordinary on the Bills shall forthwith order intimation in manner as hereinbefore provided; and if Defences be lodged at the said first box-day, the Summons and Defences may at any time within *Eight Days* thereafter be enrolled in a roll to be kept for that purpose in the Bill-Chamber; and the Lord Ordinary on the Bills shall, on a day appointed for the purpose, hear Parties thereon, and if no satisfactory cause be shown to the contrary, he shall appoint intimation to be made in the Edinburgh Gazette and in the said Minute-book, and in a newspaper or newspapers in manner above provided; and if appearance for the Defender be made at the calling on the first box-day, he shall lodge Defences thereto, if he any has, on or before the second box-day in the same vacation; and if no Defences are lodged at the second box-day, the Lord Ordinary on the Bills shall forthwith order intimation as hereinbefore provided; and if Defences are lodged at the second box-day, the Summons and Defences may at any time within *Eight Days* thereafter be enrolled in a roll to be kept for that purpose in the Bill-Chamber; and the Lord Ordinary on the Bill shall, on a day appointed for the purpose, hear Parties thereon, and if no cause be shown to the contrary, he shall appoint intimation as hereinbefore provided.

And

And be it Enacted, That where any Summons has been enrolled before the Lord Ordinary on the Bills, the process shall not continue, after intimation has been ordered as aforesaid, before such Lord Ordinary, but it shall, for the purpose of being farther proceeded in, be enrolled before one of the Lords Ordinary in the Outer-house, in the same way as other actions are enrolled before a Lord Ordinary for the first time in the Outer-house.

83.
Process not to continue before Lord Ordinary on Bills, but to be transferred to Outer-house.

And be it Enacted, That any person aggrieved by the said Order for intimation, may bring the same under review of the Inner-house; provided that, if the Order has been pronounced by a Lord Ordinary in the Outer-house, a reclaiming Note be duly lodged within *Ten Days* after the date of the said Order; and if the Order has been pronounced by the Lord Ordinary on the Bills, provided that leave to reclaim be obtained from the Lord Ordinary within *Ten Days* from the date of such Order, and that a reclaiming Note be duly lodged on or before the *Second sederunt* day of the ensuing Session.

84.
Review of Lord Ordinary's Order for Intimation.

And be it Enacted, That any Creditor of the Defender who is possessed of a Decree constituting his debt, or of a liquid document of debt, may, within *One Year and Day* after the date of the first effectual Decree of Adjudication to be pronounced as hereinafter provided, lodge with the Clerk to the process a Claim subscribed by Counsel, setting forth the nature of his demand, the grounds thereof, and the amount of the debt for which he claims; and he shall produce therewith the said Decree (or an extract thereof) or other liquid document of debt; and on the said Claim being duly notified to the Defender on induciæ of *Six Days*, either by a Notary Public, or by a Messenger-at-Arms in presence of *One Witness*; and on an execution thereof, subscribed by the said Notary, or Messenger and Witness, being produced, the Lord Ordinary may conjoin the said Creditor as a Pursuer of the Summons, and pronounce Decree of Adjudication as hereinafter provided, without the Creditor executing a Summons of Adjudication: Provided, That it shall be competent for any Creditor to execute a separate Summons of Adjudication at his own instance against the same Debtor, and to follow forth proceedings therein as herein directed, but in such case the Creditor shall not be entitled to any part of the expense thereof from the Debtor, or his estate, unless he can show that the previous Summons of Adjudication was inept, in which case, if otherwise entitled to them, expenses may be awarded to him.

85.
Creditors may appear and be conjoined as Pursuers.

May raise separate Summons, but not to be entitled to Expenses, unless original Summons inept.

And be it Enacted, That after intimation has been made as aforesaid, the cause may be enrolled before the Lord Ordinary, who, if there be no cause to the contrary, shall pronounce Decree of Adjudication, in terms of the libel, in favour of the Pursuer; and also separate Decrees of Adjudication, in terms of the libel, and of their

86.
Separate Decrees of Adjudication in favour of each Creditor to be pronounced.

respective Claims, in favour of each of the conjoined Creditors; or reserving, if necessary, all objections *contra executionem*.

87.
No objection
other than
'No Process'
to be compe-
tent against
Decree in
favour of
conjoined
Creditor.

And be it Enacted, That where any Creditor has been conjoined with the original Pursuer of a Process of Adjudication, it shall not be competent for the Defender to make any objection to the Decree of Adjudication in favour of such conjoined Creditor, in respect of any objection to the original summons, or to the citation, or to any of the other proceedings consequent thereon, other than the exception of "No Process;" reserving all competent defences against the debt of the original Pursuer, or the debt of the conjoined Creditors; and if the original Pursuer shall die or abandon the Summons, any Creditor conjoined, who shall be admitted as a Pursuer, may insist therein, as if the action had been originally raised by him: Provided, That nothing herein contained shall affect the right of any trustee on the sequestrated estate of the Debtor to claim in the manner and to the effect provided by an Act passed in the present Session of Parliament, intituled, "An Act for regulating the Sequestration of the Estates of Bankrupts in Scotland."

If original
Pursuer die,
or abandon,
conjoined
Creditor may
insist.

88.
First effectual
Decree.

And be it Enacted, That the Decree of Adjudication in favour of the Pursuer, or if he has previously thereto withdrawn, the Decree in favour of the Creditor who has first lodged his claim, and if he has in like manner withdrawn, then the Decree in favour of the Creditor who has next thereafter lodged his Claim, and so on in their order, shall be held to be the first effectual Decree of Adjudication for behoof of all the conjoined Creditors to the effect after specified, from the date of the pronouncing thereof; provided an abbreviate thereof shall be duly recorded within *Ten Days* after its date, as hereinafter provided; and the expense of obtaining and recording the first effectual Decree shall form a preferable claim on the price of the subjects, when sold, as hereinafter provided.

Expenses of
it preferable.

89.
Lord Ordina-
ry may dis-
pense with
induciae.

And be it Enacted, That the Lord Ordinary may dispense with the induciæ of any Summons of constitution duly signeted, or a Claim as aforesaid subscribed by Counsel, where this may be necessary to enable a Creditor to obtain Decree of Adjudication within the said *Year and Day*, reserving all objections as aforesaid.

90.
Review of
Decrees, &c.

And be it Enacted, That all the Decrees and Interlocutors of the Lord Ordinary shall be subject to review of the Inner-house by a reclaiming Note, duly lodged within *Twenty-one Days* from the date of the Decree, unless some other time be herein specified.

91.
After Year and
Day from first

And be it Enacted, That after the expiration of *Year and Day* from the date of pronouncing the first effectual Decree of Adjudication, it shall

shall not be competent for any other Creditor to appear in the process, or for the Lord Ordinary to pronounce in his favour any Decree of Adjudication therein; reserving to the said Creditor to raise and execute a separate Summons of Adjudication of any heritable estate, or any right or interest belonging to the Debtor which are not included in the said original Summons, or reversionary interest remaining after satisfying the Creditors adjudging within the said space of *Year and Day*; and the proceedings in reference to and under such separate Summons shall be the same as those which are provided for by this Act.

effectual Decree, no Creditors to be admitted; but may raise separate Adjudications of any other estate.

And be it Enacted, That the original Pursuer, or any of the conjoined Creditors in whose favour Decrees of Adjudication have been pronounced, may obtain an Abbreviate of the Decree in his own favour, or such part of any Decree which is applicable to his debt; which Abbreviate shall be in terms, and in the form of Schedule (Number 16.) hereunto annexed (or as near thereto as circumstances will permit), and shall contain the names and designations of the Creditor and of the Debtor, the date of the Decree and of extracting the same, and a description of the subjects adjudged, and the precise amount of the debt and interest and expenses, and other sums accumulated as aforesaid, and shall be authenticated by the signature of the extractor; and it shall not be necessary that it be subscribed by the Lord Ordinary; and no other fees than the fees allowed for extracts of decrees in ordinary actions shall be charged for the same.

92.
Creditors may obtain Abbreviates of Decrees separately.

And be it Enacted, That such Abbreviate shall be recorded in the register of Abbreviates of Adjudications, or such other register as may for that purpose be provided, by inserting therein a full copy thereof at any time within a period not exceeding *Twenty Days* after the expiration of *Year and Day* from the date of the first effectual Decree of Adjudication; and it shall not be necessary, after the Abbreviate of one Decree has been recorded, containing a full enumeration and description of the subjects adjudged, to repeat, in recording the Abbreviates of Decrees pronounced within *Year and Day* which may thereafter be presented for registration, the enumeration and description of the lands, but it shall be sufficient to refer back for such enumeration and description to the entry of the recorded Abbreviate containing the same; and the Keeper shall enter in the said Register the name and designation of the person by whom the Abbreviate was presented, and the date of presentation; and he shall annex to such Abbreviate a Certificate that the same has been recorded, in terms of the Schedule (Number 17.) hereunto annexed.

93.
Abbreviates to be recorded within a time not more than *Twenty Days* after *Year and Day* from the first effectual Decree.

And be it Enacted, That the original Pursuer and the Creditors who have obtained Decrees of Adjudication within *Year and Day* from the

94.
Creditors with recorded Abbreviates to be ranked

pari passu,
and according
to their rights
otherwise.

date of the first effectual Decree of Adjudication, and of which the Abbreviates have been recorded at any time not exceeding the said *Twenty Days* after the said period of *Year and Day*, shall be ranked equally as if they had all obtained Decrees of Adjudication for their respective debts at the date of the first effectual Decree of Adjudication, and, in other respects, according to their several rights and titles.

5

95.

Decrees of
conjoined
Creditors not
to be affected
by payment of
the Debt in
the Summons,
nor of that in
the first effec-
tual Decree.

And be it Enacted, That where the debt in respect of which the Summons of Adjudication was raised has been paid or extinguished, the Decree of Adjudication in favour of any of the conjoined and subsequent adjudgers shall not be thereby invalidated; nor where the debt in the said first effectual Decree of Adjudication is paid or extinguished shall the reckoning of the said *Year and Day* be thereby affected.

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96.

Securities to
be deducted.

And be it Enacted, That in all questions of Ranking of Adjudications, if a Creditor hold a security for payment of his debt upon any part of the Debtor's estate not included in the Decree of Adjudication, he shall deduct from his debt the amount or value of such security, and he shall be ranked for the balance only after such deduction, and receive payment accordingly: Provided, That he shall in no event draw more than full payment.

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97.

Recorded
Abbreviate to
constitute a
real burden
on lands.

And be it Enacted, That where the Abbreviate of a Decree of Adjudication has been recorded in manner before provided, the sum therein specified shall, without any Charter of Adjudication or Sasine thereon, or charge to Superiors, or presenting a Signature in Exchequer, be from the date of recording, a real debt on the subjects mentioned in the Decree; and the Abbreviate, with a certificate in terms of the said Schedule (Number 17.) shall be an effectual title to the Creditor in whose favour the decree has been pronounced, and to his heirs and assignees, to raise action of mails and duties, poiding of the ground, apply for removing of tenants and sequestration of the rents, and to enter to possession to the same effect as if he were infest in security of his debt, without prejudice to the rights of the Superior; but neither the Decree of Adjudication nor the recorded Abbreviate shall transfer the property to the Creditor during the period of redemption, nor till Decree of Expiry of the Legal be pronounced as hereinafter provided.

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98.

Redemption
limited to
Five Years
from *Year and*
Day after the
first effectual
Decree; and
from dates of
Decrees there-
after.

And be it Enacted, That the Debtor or his successor may redeem the estate of which Decree of Adjudication has been pronounced at any time within the space of *Five Years* after the expiration of *Year and Day* from the date of pronouncing the first effectual Decree of Adjudication; and where Decree of Adjudication has been pronounced after the expiration of *Year and Day* after the date of each Decree, he may redeem the same at any time within *Five Years* from the date of the Decree; and he may do so by paying to the Creditor, or his

35

successor.

successor, the sums of money specified in the Decree and the expenses decerned for, with the lawful interest on the sums and expenses in the Decree during the time of the not-redemption, and also the expenses of extracting the Decree and recording the extract, as the same shall
 5 be modified by the Court of Session, or consigning the same in one of the chartered Banks in Edinburgh on a receipt in favour of the said Creditor or his foresaids, and lodging the receipt with one of the Principal Clerks of Session, and duly notifying such consignment and lodging to the said Creditor or his foresaids; or by paying or con-
 10 signing as aforesaid such parts of the said sum or sums as shall be resting owing to the said Creditor or his foresaids: Provided, That where the period allowed by any Deed of Entail to redeem any Adjudication against the estate shall not exceed the period of *Ten Years*, nothing herein contained shall limit or extend the period within which
 15 any Heir of Entail may redeem such Adjudication; but when the same exceeds *Ten Years*, then the period shall be limited to *Ten Years*; and the rights of minors shall remain and be judged of in the same way as if this Act had not been passed.

Exception as
to Heir of
Entail and
Minors.

And be it Enacted, That on expiration of the said period of re-
 20 demption, any Creditor or any one in his right who has obtained and recorded a Decree of Adjudication, may either enrol the Process before the Lord Ordinary, to the effect of insisting in the conclusions of the original Summons for Decree of Expiry of redemption, or alter-
 25 natively for a sale of the said subjects; or such Creditor may raise and execute a Summons concluding for Decree of Expiry of redemption, to have it found that the right of the Pursuer has now become absolute, and that the estate adjudged shall belong to the Pursuer absolutely, and Superiors be ordained to infeft the Pursuer therein accordingly;
 30 or alternatively and in the Pursuer's option that the estate should be sold by public roup, and the Pursuer paid his debt, interest and expenses out of the price.

99.
Creditor may
raise action
for Decree of
Expiry of the
Legal, or for
Sale.

And be it Enacted, That in case the Creditor shall proceed by en-
 rolling the original Process, the Lord Ordinary shall grant Warrant on
 the usual induciæ to serve a copy of such Warrant on the Defender,
 35 or his successor; and if the Creditor proceed by a new action, then the Summons shall be in terms of law served on the Defender or his suc-
 40 cessor; and in both cases Notice shall be given to each of the Creditors in whose favour Decrees of Adjudication have been pro-
 nounced within *Year and Day* from the date of the first effectual
 Decree, or to his successor, by advertisement in the Edinburgh Gazette,
 and if payment be not tendered, or if no cause be shown to the con-
 trary, the Lord Ordinary shall pronounce Decree declaring the legal
 period of redemption to be expired, and that the subjects belong
 to the Pursuer in terms of the conclusions of the Summons, and shall

100.
Intimation to
be made.

grant Warrant to charge Superiors to enter and infest him in terms of law.

101.
Provisions
where Creditor
applies for sale
of the lands.

And be it Enacted, That in case the said Creditor shall in place of moving for Decree of Expiry move for Decree in terms of the alternative conclusion as to the sale of the lands, the proceedings for the sale and payment or consignment of the price, and the ranking of the Creditors, and the division of the price, and in all other respects, shall be the same as in a process of ranking and sale. 5

102.
Charges
against Heirs
may be in-
serted in the
Summons of
Constitution,
and Bill dis-
pensed with.

And be it Enacted, That on and after the said *First day of October* it shall not be necessary for any Creditor of a deceased Debtor to expedite letters of general charge or of special charge, or of general special charge or other charges against the Heir to compel him to enter, or to constitute a passive title as representing such Debtor; but it shall be sufficient in any Summons of Constitution raised either before the Court of Session or the Sheriff Court against such Heir to insert a Warrant or Will containing a general charge, and to insert in any Summons of Adjudication a Warrant for a special charge or a general special charge, as the case may be; or if the Heir himself shall be the Debtor, and where no Decree of Constitution is requisite, it shall be competent to insert such Warrant in any Summons of Adjudication which may be raised against such Heir, and that without the necessity of any Warrant from the Bill-Chamber of the Court of Session. 10 15 20

103.
RANKING AND
SALE.

No Bill and
Warrant ne-
cessary to
authorize a
Summons of
Ranking and
Sale.

AND whereas it is expedient to amend the Law as to actions of Ranking and Sale before the Court of Session, to regulate the rights of Creditors in competition, and to extend the jurisdiction of the Sheriff in Scotland to such actions where the subjects are of small value; BE it therefore Enacted, That on and after the said *First day of October*, it shall be lawful to Writers to the Signet to subscribe, and to the Keeper of the Signet to affix the signet to any Summons of Ranking and Sale, without the necessity of a Bill being presented in the Bill-Chamber of the Court of Session, and without a Warrant passing the Bill or authorizing such Summons to be issued; and such Summons when duly subscribed and signeted shall be a sufficient warrant for citation and for all other lawful proceedings consequent thereon. 25 30

104.
Any Debtor,
Owner of
Lands, &c. or
Heritable
Creditor, or
Personal
Creditor for a
present debt of
Five hundred
Pounds may
raise an action
of Ranking
and Sale.

And be it Enacted, That after the said *First day of October* any Debtor who is the owner of heritable estates within Scotland, whether he be Notour Bankrupt or not, and the apparent heir of such Debtor, and any heritable Creditor of such Debtor, whether the Creditor be infest and in possession or not, and any personal Creditor of such Debtor, whose debt shall amount to the sum of *Five hundred Pounds*, and the trustee on the Debtor's sequestrated estate, may raise and insist in a Summons of Ranking and Sale of the heritable estates of such Debtor 35

Debtor before the Court of Session: Provided, That where the Summons is raised and insisted in at the instance of an heritable or personal Creditor, the Debtor shall be Notour Bankrupt, and the debt claimed by such Creditor be not future or contingent.

- 5 And be it Enacted, That where any such Summons has been called, whether at the instance of the Debtor himself, or of his heir apparent, or of a Creditor, it shall be competent, although the original Pursuer may have died or abandoned the action, for any Creditor, qualified as before provided, or the Trustee on the Debtor's sequestrated estate, 10 who shall make appearance as hereinafter provided, to insist therein in the same way and to the same effect as if the Summons had been originally raised by such Compearer; and where such Compearer has been conjoined as a Pursuer, no objection to the proceedings in the process, nor to the sale, nor to the title of the purchaser, shall be com- 15 petent on the ground of any nullity in the title or document of debt of the Pursuer.

105.
Compearing
Creditor may
insist, al-
though the
Pursuer die,
or abandon
the action.

- And be it Enacted, That on and after the said *First day of October* it shall not be necessary to obtain the concurrence of His Majesty's Advocate to any Summons of Ranking and Sale, nor to set forth that 20 it is pursued with his concurrence, for His Majesty's interest; nor that the heritable Creditor Pursuer thereof is in possession of the heritable subjects mentioned in the Summons; nor that the debt or owner thereof is insolvent.

106.
Not necessary
in the Sum-
mons to have
the concur-
rence of the
Lord Advo-
cate; nor to
allege posses-
sion by an
heritable
Creditor; nor
insolvency.

- And be it Enacted, That where the said Summons is raised by the 25 Debtor or his apparent heir, he shall conclude that the heritable estates enumerated in the Summons should be adjudged to belong to all the Creditors who shall be included in the decree of division; and where it is raised by an heritable or personal Creditor or Trustee as aforesaid, he shall set forth that the Debtor is Notour Bankrupt, and conclude 30 that the heritable estates set forth in the Summons, or afterwards condescended on, as hereinafter provided, should be adjudged to belong to the Pursuer, and all the Creditors who shall be included in the decree of division; and in either case the Pursuer (whether he be the Debtor, apparent Heir, or Creditor) shall conclude that decree of 35 certification, without exception of minority, should be pronounced against those Creditors who fail to appear and produce their claims, grounds of debt and oaths of verity, on or before a day to be appointed in the course of the process, or who shall not be included in the decree of division; that the heritable estates should be sold, and decree of 40 sale pronounced in favour of the Purchaser, which should have the effect of an irredeemable Adjudication, disencumber the lands of all heritable debts thereon, and operate as an assignation to the Purchaser of the debts to the extent of the price to be received by each of the

107.
Conclusions
of the Sum-
mons.

Creditors, who should be bound to warrant their debts to the said extent and titles thereof, but not the titles to the said heritable estates, reserving the rights of the Creditors in the debts, so far as relates to the Debtor, quoad ultra, as accords; and farther, that the Purchaser, on payment or consignment of the price, as hereinafter provided, should be discharged, and Superiors ordained to enter and grant Charters to, and to infest the Purchaser in the said heritable estates; that the Creditors compearing should be ranked on the said estates, or the price thereof, according to their respective rights and interests; and that the price should be divided among them accordingly.

108.
Debtor and
heritable
Creditors to
be cited
specially, and
all others
edictally.

And be it Enacted, That where the said Summons is raised by the Debtor or his heir apparent, the heritable Creditors in possession of the said heritable estates, or any part thereof, shall in terms of law be severally cited to make appearance, and all other Creditors or others having interest shall be cited edictally on induciæ of *Sixty Days*, at the Record Office of the Keeper of the Records of the Court of Session, without the necessity of any other citation; and where the Summons has been raised by an heritable or personal Creditor, or the said Trustee, the Debtor and the heritable Creditors in possession shall be severally cited in terms of law, and all other Creditors or others having interest shall be cited edictally at the Record Office in manner before provided, on induciæ of *Sixty Days*, without any other citation whatsoever: Provided that nothing herein contained shall affect the rules relative to the judicial sale of the estate of a Bankrupt sequestrated by virtue of an Act passed in the present Session of Parliament, intituled, "An Act for regulating the Sequestration of the Estates of Bankrupts in Scotland."

109.
Summons to
be called ac-
cording to
existing prac-
tice if during
Session;

and on the
Box-days
during
Vacation.

And be it Enacted, That on the said Summons being executed it shall, if the diet of compearance fall within the time when the Court of Session is sitting, be called agreeably to the existing practice, but if the diet of compearance fall within the vacation, the Summons may be called on one of the days appointed as box-days, provided the box-day be on or after the diet of compearance; and if the diet of compearance fall on a day subsequent to the box-days, or if the Summons has not been called at the box-day, it shall be called on the *First* calling day of the ensuing Session.

110.
Defender to
lodge De-
fences, if he
any has, with-
in a limited
period.

And be it Enacted, That on the Summons being called during Session, if no appearance be made by the Defender or any other Person having a lawful interest, or if appearance has been made, but the time for lodging defences has expired without defences being lodged, the Summons may be enrolled before one of the Lords Ordinary in the Outer-house, who shall order intimation as hereinafter provided; and if appearance be made at the said calling, the Defender or such Person shall

shall lodge Defences (if he any has) agreeably to the existing practice ; and if the Summons be called at any of the box-days during the vacation, the Defender shall lodge Defences thereto (if he any has) on or before the *Third* sederunt day of the ensuing Session.

5 And be it Enacted, That on the expiration of the time for lodging defences as aforesaid, the Summons may be enrolled with or without defences before the Lord Ordinary, who, if defences be lodged, shall hear Parties thereon, and if no cause be shown to the contrary, or if
10 no defences have been lodged, he shall appoint the Defender to lodge within a limited time a Condescendence of his whole heritable estates, and to produce the title-deeds, leases, missives of lease, rentals and other documents relative to the said estates ; and he shall grant diligence to the Debtor or Creditor Pursuer thereof or other Party having interest to recover the same, and also (if necessary) to recover evidence of the
15 Debtor's Notour Bankruptcy ; and the Lord Ordinary shall at the same time appoint the Pursuer to publish an intimation in the Minute-book of the Court of Session, on the walls of that Court, *Once* in the Edinburgh Gazette, and at least *Once* in each week for the space of not less than *One Month* in such newspaper or newspapers as he shall see fit, that the said Summons of ranking and sale has been raised, and requiring the Creditors to lodge with the Clerk to the Process their claims, grounds of debt and oaths of verity on or before a certain day, for the first term, being not less than *Ten Days* after the expiration of the said *Month*, with certification as in an action of reduction-improbation ; and it shall
25 not be necessary to extract this Order, nor shall any fees be paid as if the same were extracted.

111.
Debtor to lodge a Condescendence, and to produce Titles ; and intimation to be made as for the first Term.

And be it Enacted, That after the day of publication of the first notice or term in the said Gazette, it shall not be competent for any Creditor to raise or insist in any Summons of Adjudication of the said
30 estates, or any Action of Constitution with a view to claiming thereon, reserving right to such Creditor to lodge a claim in the action of ranking and sale in manner hereinafter provided for his debt, and for any expenses which may be due to him in respect of any Summons of Adjudication or Constitution which he may, previously to the notice, have
35 raised, and proceedings consequent thereon, reserving also all objections to the debt ; and this rule shall apply to all actions of ranking and sale, whether raised at the instance of the Debtor himself, or of an apparent Heir or of a Creditor.

112.
Separate Actions of Adjudication and Constitution not to be raised after the first intimation.

And be it Enacted, That at any time after the calling of the Summons and before decree of reduction contra non producta shall be pronounced
40 as hereinafter provided, but not thereafter (subject always to the provision hereinafter made), any Creditor of the Debtor or the Trustee on his sequestrated estate may lodge with the Clerk to the Process a Claim,

113.
Requisites to entitle a Creditor to appear and be conjoined.

setting forth the nature of his debt, the amount thereof, and the grounds on which it is founded, and he shall therewith produce the written evidence of his debt (if he any has) and an oath of verity, sworn before the Judge Ordinary of his domicile, or before a Justice of the Peace, or before a Commissioner of Bankruptcy, or before a Magistrate or other Officer duly authorized to administer oaths in England or in any other country, declaring that in the case of the said Trustee it shall be sufficient to lodge an Extract of the act and warrant of his confirmation, and a Claim for the amount of the debts ranked in the sequestration; and if there be no cause to the contrary, every such Creditor or Trustee shall be conjoined as a Pursuer of the Action; and where such claim has been duly lodged it shall have the same effect as if the Creditor had raised and executed a Summons of Constitution against the Debtor or his apparent Heir, and shall interrupt prescription.

Compearance
to be equivalent
to an
Action of
Constitution.

114.
Second Inti-
mation as for
second Term,
and Notice of
Election of
common
Agent to be
published.

And be it Enacted, That on expiration of *Ten* Days after the first term, the Pursuer, or any Creditor who may have duly lodged his claim, grounds of debt and oath of verity, may enrol the Action before the said Lord Ordinary, who shall thereupon appoint the person by whom the Action has been enrolled, to publish, as for the second term in an Action of Reduction-Improbation, an intimation in the Minute-book of the Court of Session, and on the walls of the said Court, and *Once* in the *Edinburgh Gazette*, and *Once* weekly for the space of *Three Weeks* in such newspaper or newspapers as the Lord Ordinary may direct, requiring all concerned to lodge their claims, grounds of debt and oaths of verity, with certification that Decree of Reduction contra non producta shall be pronounced on a certain day, being not sooner than *Three Weeks*, and not longer than *One Month*, after the date of the said intimation in the *Gazette*, and that all those who shall not have produced their claims, grounds of debt and oaths of verity on or before that day, shall be excluded from any share in the division of the price of the subjects; and that on a certain other day and hour, being not less than *Eight Days* after the said day on which Decree of Certification is to be pronounced, a meeting of those Creditors who shall have lodged claims as aforesaid shall be held at a specified place for the election of a common Agent in the said Action; and it shall not be necessary to extract this Order, nor shall any fees be paid as if the Order were extracted.

115.
Decree of
Reduction-
Improbation
contra non
producta.

Lord Ordinary
may repone.

And be it Enacted, That on the day appointed; or so soon thereafter as conveniently may be, the Lord Ordinary shall pronounce Decree of Reduction-Improbation contra non producta; and it shall not be necessary to extract the said decree, nor shall any fees be paid as if the same were extracted, unless the same be actually extracted: Provided, That it shall be competent for any Creditor on producing a Claim, with his grounds of debt and oath of verity, in manner above provided, to present

present a note to the Lord Ordinary, within *Twenty-one* Days after the date of the said decree, praying to be reponed against the same; and it shall be lawful for the Lord Ordinary, on cause shown and on payment of such expenses as he shall see fit, to repone the said Creditor against the said decree; but declaring that the Creditor so reponed shall not be entitled to make any objection to the regularity of the election of the common Agent, reserving right to him to complain of the conduct of such Agent as accords of law.

And be it Enacted, That at the time appointed by the Lord Ordinary, the Creditors who shall previously to the pronouncing of the Decree of Reduction contra non producta have duly lodged their claims, grounds of debt and oaths of verity, or their mandatories authorized in writing, shall assemble at the place appointed as aforesaid, and shall proceed to elect a fit and competent Person to act as common Agent in the Action; and the Person who shall have the majority of the votes of the Creditors in value present by themselves or mandatories, shall be common Agent: Provided, That his election shall be confirmed by the Lord Ordinary, who shall administer to him the oath de fideli administratione.

116.
Proceedings
relative to
election of
common
Agent.

And be it Enacted, That the Lord Ordinary, before whom any Action of Ranking and Sale shall be enrolled, whether the same has been raised on or after the said *First* day of *October*, shall have the same powers which are by law competent to and possessed by the Inner-house of the Court of Session, in relation to the sale of the estates, and also to the sequestration thereof, and the appointment of a factor thereon: Provided, That any interlocutor or decree pronounced by the Lord Ordinary shall be subject to the review of the Inner-house.

117.
Powers of
Lord Ordinary
to be the same
as Inner-
house, subject
to review.

And be it Enacted, That after the common Agent shall have been elected and confirmed, he shall for the purpose of fixing the upset price and furnishing information to intending purchasers, prepare a State of the titles and the holdings of the subjects, and of the amount of the burdens thereon, and of the rental or annual value thereof, and of the duration of the leases; and if the titles, leases, rentals and other documents recovered or produced in process shall not afford sufficient information, the Lord Ordinary shall, on the motion of the common Agent, grant diligence to cite Witnesses, and commission to the Sheriff of the shire in which the subjects or greater part thereof are situated, or to some other fit Person to take the necessary evidence; and after the diligence and commission are reported, the common Agent shall complete the said State, and shall thereupon apply to the Lord Ordinary to remit to any *Two* qualified Persons to report as to the value of, or the price to be put on, the said estates, which remit

118.
Proof of
value with a
view to sale.

Prepared
State and
Memorial and
Abstract dis-
pensed with.

the Lord Ordinary shall grant accordingly ; and on the Report being made, the Lord Ordinary shall, on the motion of any Person having interest, hear all objections to the said State and Report, and either confirm or alter the same as to him shall seem just : Provided, That it shall not be competent to make up any prepared State or Memorial and Abstract (except as before provided) in regard to the value of the said estates and other matters relating thereto as has hitherto been the practice. 5

119.
Upset Price
to be fixed.
Articles of
Roup to be
settled, and
Estates sold.

And be it Enacted, That on such State and Report being finally approved of, the Lord Ordinary shall (whether the ranking of the Creditors be concluded or not), unless cause be shown to the contrary, appoint the said estates to be exposed for sale by public roup, at such time and place as shall be most beneficial for all concerned ; and for that purpose he shall fix the upset price either of the whole estates in one lot or in separate lots as may be most expedient, and direct articles of roup thereof to be framed by the common Agent ; and if the sale is to take place elsewhere than in Edinburgh, he shall appoint the same to take place in presence of the Sheriff of the shire where the estates or greater part thereof lie, as Judge of the roup ; and if the sale is to take place in Edinburgh, he shall appoint it to be made in presence of One of the Principal Clerks of Session as Judge of the roup ; and shall remit to the said Sheriff or to the said Principal Clerk (as the case may be) to settle along with the common Agent the terms of the articles and minutes of roup, who shall do so accordingly, and the articles and minutes shall thereupon be subscribed by the common Agent for behoof of all concerned ; and the Lord Ordinary shall direct the sale to be intimated in the Minute-book of the Court of Session, Once in the Edinburgh Gazette, and at least Once weekly for such period as to him shall appear to be expedient in such newspaper or newspapers as to him shall seem fit ; and it shall not hereafter be lawful to pronounce any other Warrant of publication than the order above specified, nor to extract or give out Letters of publication, nor to follow out the forms of publication and citation required in processes of Judicial Sale by certain Acts passed in the Parliament of Scotland in the years One thousand six hundred and eighty-one, and One thousand six hundred and ninety-five, nor for the Lord Ordinary on the Bills or any other Lord Ordinary to preside at such sale, nor to extract the said order, nor shall any fees be paid in respect thereof. 10 15 20 25 30 35

Sale to be
advertised.

120.
Decree of Sale
to be pro-
nounced.

And be it Enacted, That the said estates shall as hereinbefore provided be exposed to sale, and if they are not sold at the upset price, the Lord Ordinary may lower the same until they be sold ; and on the same being sold, the Lord Ordinary shall pronounce a Decree of Sale in favour of the Purchaser, which shall have the same effect as if it were pronounced by the Inner-house of the Court of Session, and operate 40

operate as an irredeemable Decree of Adjudication in favour of the Purchaser, and disencumber the said estates of all securities contracted or granted by the Debtor, his authors or predecessors thereon; and operate as an assignation of the securities, in so far as they can apply to or affect the estates sold, and as a discharge to the Debtor of such debts, to the extent of the share of the price received by each of the Creditors respectively, reserving their rights thereto quoad ultra as accords of law, in so far as relates to the Debtor; and the Creditors shall be bound to warrant the validity of such debts to the extent of the shares of the price received by them respectively and titles thereto, but not the validity of the Debtor's titles; and the Lord Ordinary shall grant Warrant to charge Superiors to enter and infest the Purchaser; and the title of the Purchaser may thereupon be made up by Charter and Sasine in common form.

15 And be it Enacted, That in every case where such estates have been sold, it shall be lawful to the Purchaser, at the term of payment of the price, or at any term of Whitsunday or Martinmas thereafter, on giving *Three* Weeks notice thereof to the common Agent, to lodge the price, with the interest then due upon it, in any of the chartered Banks in Edinburgh, at such rate of interest as can be procured for it, on a receipt in name of the common Agent, for behoof of all concerned; and on lodging such receipt in the hands of the Clerk of the Process, the Purchaser shall be discharged of the price and interest thereon; and it shall not be competent for the Purchaser to make consignment in the terms required by the said last-mentioned Acts of the Parliament of Scotland; but nothing herein contained shall entitle the Purchaser to retain possession of the price beyond the term of payment.

121.
Payment and
Consignation
by the Pur-
chaser.

30 And be it Enacted, That where any of the Debtor's heritable estates has been omitted to be included in the said Summons or the Condescendence, it shall not be competent thereupon to ground any objection to the proceedings: Provided always, That it shall be competent for any one, having a lawful interest, to lodge, at any time before the final close of the process, a Condescendence, setting forth the subjects which have been omitted; and the Lord Ordinary shall, unless lawful cause be shown to the contrary, appoint the said subjects to be sold, and the price divided in the same way as if such omitted subjects had been enumerated in the Summons or the Condescendence.

122.
Omitted
Subjects;
to be sold in
manner here-
in provided.

40 And be it Enacted, That no duties or notices or advertisements inserted in the Edinburgh Gazette, as provided by this Act (except those under powers of sale, as hereinafter provided) shall be exigible in respect of any stamp duty, or other Government duty whatsoever; and no rates or duties imposed by any Statutes upon the sale of estates by auction shall be exigible on the sale of any estates by virtue of this Act.

123.
No Duties to
be exigible on
Advertisements
in the
Gazette or
sales.

124.
Decree of Sale
to be equivalent to
Decree of
Adjudication
in favour of
Creditors.

And be it Enacted, That the Decree of Sale shall, in all questions of ranking among the Creditors, have the effect of a first effectual Decree of Adjudication in favour of all the Creditors included in the Decree of Division ; and shall operate in favour of the Creditors of the ancestor who have claimed and been conjoined in the process of ranking and sale, as if such Creditors had adjudged separately.

125.
Creditors to
be ranked ac-
cording to
their respec-
tive rights.

And be it Enacted, That after the common Agent has been confirmed, he shall (whether the subjects have been sold or not) frame a State of the respective rights of the Creditors, with a view to the ranking of them in the manner which has been hitherto practised ; and the Lord Ordinary shall hear parties thereon, and pronounce such judgment in relation thereto as shall be just, and also a Decree of Ranking ; and it shall not be necessary to extract such Decree of Ranking, nor shall any fees be paid in respect thereof, as if it were extracted. 10

Not necessary
to extract
Decree of
Ranking.

126.
Securities to
be deducted.

And be it Enacted, That in all questions of ranking, if any Creditor hold a Security for payment of his debt, upon any part of the Debtor's estate or effects, not included in the Decree of Sale, he shall deduct from his debt the amount or value of such Security, and he shall only be ranked for the balance after such deduction, and receive payment accordingly : Provided, That he shall in no event draw more than full payment. 15 20

127.
Price to be
divided
among the
Creditors ;
and not
necessary to
extract
Decree.

And be it Enacted, That after the Decree of Ranking of the Creditors has been pronounced, the Lord Ordinary shall direct such proceedings to be taken as may be necessary for dividing the price of the subjects among the Creditors, who have claimed and been admitted in the process according to their respective rights, and shall thereafter pronounce Decree of Division ; and it shall be competent for the Lord Ordinary to grant Interim Decree and Warrant for payment, in favour of any Creditor who may be lawfully entitled to such Decree, subject always to the review of the Inner-house ; and it shall not be requisite to extract any of the said Decrees, nor shall any fees be paid in respect of such Extract, as if they were extracted : Provided, That the Party paying, in terms of the said Warrant, shall be discharged, as if the said Decrees had been extracted. 25 30

128.
Sheriff autho-
rized to sell
Lands and
others of the
value of *One
thousand five
hundred*
Pounds, or
One hundred
Pounds per
year, and di-
vide the price.

And be it Enacted, That where the value of any heritable estates belonging either to one Person or to more Persons jointly, shall not exceed the value of *One thousand five hundred* Pounds, or in cases where the rents do not exceed the sum of *One hundred* Pounds yearly, it shall be competent for the Sheriff of the shire in which the said estates or greater part thereof are situated, to exercise jurisdiction in any Action which may be raised before him at the instance either of the said Person or Persons ; or if he or they be Notour Bankrupt, at the instance 35

instance of any heritable Creditor, whether infest and in possession or not, or of any personal Creditor where the debt of such personal Creditor, being neither future nor contingent, shall amount to the sum of *One hundred* Pounds, for the sale of such subjects, and to divide the price thereof among the Creditors of such Person or Persons as in a process of multiplepoinding; and the Sheriff shall grant warrant to cite the Debtor and the heritable Creditors (as the case may be) to appear within such time, being not longer than *Three Weeks* after the date of service; and to publish a notice in the *Edinburgh Gazette*, calling on all concerned to appear and show cause why the prayer should not be granted; and on expiration of the said period the Sheriff shall, if required, ascertain the value of the estates, both with reference to the question of competency of the Action, and the Notour Bankruptcy of the Debtor, and to the sale of the lands and others; and direct a common Agent to be chosen, and appoint the time and place of sale, and fix the upset price, and superintend the sale, and pronounce decree of sale in favour of the Purchaser, and divide the price among the Creditors according to their several rights, subject always to the review of the Court of Session, all in the way which shall be fixed by an Act of Sederunt to be made by the Court, and which Act they are hereby required to make, and copies thereof shall forthwith be transmitted to the Secretary of State for the Home Department to be laid before both Houses of Parliament; and although the said estates when exposed to sale shall produce a larger price than the said sum of *One thousand five hundred* Pounds, or a greater annual value than a rental of *One hundred* Pounds yearly, it shall not be competent to object to the validity of the sale on the ground that the value of the said estates truly exceeded the sum of *One thousand five hundred* Pounds or *One hundred* Pounds yearly; and the Sheriff Clerk and Messengers at Arms and Sheriff Officers shall possess full power and authority to act in their respective offices in relation to such Actions; and where any person, whom it is necessary to cite, is domiciled within the territory of another Sheriff, he may be lawfully cited in virtue of the said warrant indorsed by such other Sheriff.

Act of Sederunt to be made.

AND whereas it is expedient to regulate the law as to the exercise of Powers of Sale contained in heritable securities; BE it therefore Enacted, That on and after the said *First* day of *October*, any Creditor who is infest in heritable estates by virtue of any deed competent to constitute a real burden on heritable estates, containing a power to sell the same in payment of debt, may lawfully carry such power into execution, notwithstanding the Bankruptcy or Death of the Debtor granter of the deed, and notwithstanding the minority of the Heir of the Debtor and the currency of the annus deliberandi; provided that due notification be made to the Debtor, and in case of his death to his heir, and that all the stipulations and conditions specified in the deed

129.
POWERS OF SALE.
Creditors holding Powers of Sale entitled to execute them after the Bankruptcy or Death of the Debtor.

be complied with ; and if the heir be minor or not known, the person who is desirous to exercise the power shall obtain the authority of the Lord Ordinary on the Bills, or the Sheriff, as hereinafter provided.

130.
Creditor may
apply to the
Lord Ordinary
on the Bills,
or Sheriff, to
grant author-
ity to sell.

And be it Enacted, That any Creditor who is infeft in heritable estates by virtue of any deed in security of debt, containing a Power of Sale (whether there be other debts heritably secured thereon, and whether the same be prior or posterior or not to the Petitioning Creditor's debts), may apply by summary Petition to the Lord Ordinary on the Bills, or to the Sheriff of the shire where such estates or the greater part thereof are situated, for a Warrant to sell them, in terms of the said deed, or in such other terms as to the Lord Ordinary or the Sheriff (as the case may be) shall appear beneficial for all concerned ; and thereafter to divide the price among all the Creditors duly infeft in such estates according to their respective rights. 5 10

131.
Proceedings
with a view
to Sale.

And be it Enacted, That on the Petition being in terms of law notified to the Debtor, or in case of his death to his Heir, and if the Heir be in minority to his Tutors and Curators (if he any has), and to any Creditors of the Debtor who are infeft in security of debt, the Lord Ordinary or the Sheriff (as the case may be) shall, if no cause be shown to the contrary, grant such Warrant ; and the Lord Ordinary or the Sheriff (as the case may be) shall direct the sale to be advertised in terms of the said deed, or in such other terms as shall appear to be beneficial for all concerned ; and appoint articles of roup to be prepared and settled, and a fit Person to act as Judge of the roup, and fix the price at which the estates shall be offered for sale ; and where the Person against whom the said Petition is presented to the Sheriff is domiciled within the territory of another Sheriff, it shall be lawful for such other Sheriff to indorse the Warrant of Service ; and on the Warrant so indorsed being executed in terms of law, it shall be as effectual to compel the Person on whom it has been served to appear before the Sheriff by whom the Warrant has been issued as if he were domiciled within the territory of such last-mentioned Sheriff, which several Warrants may be executed by Messengers at Arms as well as by Sheriff Officers. 15 20 25 30

132.
Subjects to be
sold, and De-
cree of Sale
pronounced.

And be it Enacted, That the estates shall be exposed to sale as above provided ; and if they are not sold at the upset price, the Lord Ordinary on the Bills or the Sheriff (as the case may be) may lower the price until they be sold ; and on being sold the Lord Ordinary on the Bills or the Sheriff (as the case may be) shall pronounce a Decree of Sale in favour of the Purchaser, which decree shall have the same effect as an irredeemable Decree of Adjudication in favour of the Purchaser, and disencumber the estates of all heritable debts or other securities thereon, and operate as an assignation thereof, in so far as the 35 40 the

the same can apply to or affect the estates contained in the Decree of Sale, and as a discharge to the Debtor of the debts to the extent of the shares of the price paid to the respective Creditors, reserving their rights thereto in so far as relates to the Debtor quoad ultra as accords of law; and the Creditors shall be bound to warrant their debts to that extent and their titles thereto, but not the validity of the Debtor's titles; and the Lord Ordinary on the Bills or the Sheriff (as the case may be) shall grant Warrant, if necessary, to charge Superiors to receive and enter the Purchaser as Vassal.

- 10 And be it Enacted, That the Purchaser may at the specified term of payment of the price, or at any subsequent term of Whitsunday or Martinmas, on *Three Weeks'* notice to the Creditor at whose instance the sale has taken place, lodge the price with the interest then due upon it in any of the chartered Banks in Edinburgh, or in any of
15 the branches thereof, at such rate of interest as can be procured for the same on a receipt in name of the Clerk of Court, subject to the orders of the Judge for behoof of all concerned; and on lodging the receipt in the hands of the Clerk the Purchaser shall, if no cause be shown to the contrary, be discharged of the price and interest thereon: Provided
20 that nothing herein contained shall entitle the Purchaser to retain the price beyond the term of payment; and it shall be competent to any Creditor duly infeft in the said subjects to apply by Petition to the said Lord Ordinary or the Sheriff (as the case may be) to compel the Purchaser to lodge the price and interest thereof at the term of pay-
25 ment in one or other of the said Banks.

133.
Payment and
Consignation
by the Pur-
chaser.

- And be it Enacted, That after such Petition has been presented to the Lord Ordinary on the Bills or to the Sheriff (as the case may be), any Creditor infeft in the estates in security of debt with a power of sale, or the Trustee on the sequestrated estate of the Debtor, may com-
30 pear and be conjoined as a joint Petitioner, and such Compeerer may insist in the same although the Creditor by whom it was presented shall die or desert the same: Provided, That such Creditor or Trustee shall lodge with the Clerk to the process a claim setting forth the nature of his debt and the amount thereof, and therewith produce the Bond or
35 other Deed, with the relative instrument of Sasine, in virtue of which such debt has been constituted a burden on the said estates, or the act of sequestration or authentic extracts thereof.

134.
Requisites to
entitle a
Creditor to be
conjoined in
the Proceed-
ings for Sale.

- And be it Enacted, That where the Petition has been presented to the Lord Ordinary on the Bills, and the estates have been sold, and
40 Decree of Sale pronounced, the Petition shall be enrolled before one of the Lords Ordinary in the Outer-house of the Court of Session, with a view to the ranking of the Creditors, and the division of the price among them, according to their respective rights and interests;

135.
Proceedings
for Ranking
and Division
in Court of
Session.

and the further proceedings shall take place as in a process of multiple-poin ding.

136.
Proceedings
for Ranking
and Division
before the
Sheriff.

And be it Enacted, That where the Petition has been presented to the Sheriff, and the estates have been sold as aforesaid, the further proceedings, with a view to the ranking of the Creditors, and the division of the price, shall take place as in a process of multiple-poin ding.

5

137.
Interlocutors
and Decrees
subject to
review.

And be it Enacted, That the Interlocutors and Decrees pronounced by the Lord Ordinary on the Bills, or the Lord Ordinary in the Outer-house, or the Sheriff, shall be subject to review, in the same way as interlocutors and decrees pronounced by them in other cases are by law subject to review.

10

138.
This Act not
to affect
Rights of
Creditors to
sell in terms
of their
powers.

And be it Enacted, That nothing herein contained shall affect the right of any heritable Creditor holding a Power of Sale, to bring the estates to sale in manner mentioned in the deed containing the power : Provided, That if there be prior heritable Creditors who do not consent to the sale, the estates shall be sold under burden of the debts and interest due to such Creditors ; and where there are postponed heritable Creditors who do not consent to the sale, the proposal of sale shall be intimated to them by a Notary Public ; and any postponed Creditor, on paying the debt, interest and expenses to the prior Creditor proposing to sell, shall be entitled to an assignation thereto ; and such payment shall be effectual to prevent the sale.

15

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139.
Creditors en-
titled to pur-
chase.

And be it Enacted, That where any estates, heritable or moveable, are exposed to sale under the authority of the Lord Ordinary or the Sheriff, by virtue of this Act, it shall be lawful for any Creditor, whether the sale be at his instance or not, to become the Purchaser.

25

140.
POINDINGS OF
THE GROUND.
Competent for
Superiors and
real Creditors
to apply by
Summary
Petition to the
Sheriff for
Warrant to
Poind the
Ground in
payment of
Fou-duties,
Annual
Rents, and
Interest.

AND whereas it is expedient to regulate the diligence of Poinding of the Ground ; BE it therefore Enacted, That on and after the said *First* day of *October*, any Superior and any Person infest in any heritable estate in security of an annual rent, or of a debt, and interest thereof, or who is vested in any debitum fundi or real debt, may apply to the Sheriff of the county in which the heritable estates or the greater part thereof are situated, by Petition, for Warrant of Service on the Debtor, and (if he shall be a different Person) on the Proprietor or Life-renter, and on the tenants or possessors, requiring them to lodge answers within *Fifteen* Days from the date of service ; and also for Warrant to poind and sell, in manner hereinafter provided, the moveable effects which are then or may thereafter be on the ground thereof, in payment of the duties, annual rents and interest payable to the Superior or other Person

30

35

as

- as aforesaid, and arrears thereof for *One Year* prior to the date of the said Petition, (but in so far as regards the tenants to the extent only of the rents which may be due by them respectively); which Warrant of Service the Sheriff shall forthwith grant to Messengers at Arms and
- 5 Officers of Court, and on expiration of the said *Fifteen Days*, he shall also, if no cause be shown to the contrary, grant Warrant to Poid in terms of the prayer of such Petition.

Sheriff to
grant War-
rant.

- And be it Enacted, That such Warrants shall be effectual although part of the subjects be situated within the territory of another Sheriff,
- 10 and although the Debtor be domiciled within that territory, provided that the Warrants be indorsed by the Sheriff within whose territory the goods to be poided are situated, or the Debtor is domiciled.

141.
Warrants to
be effectual
although part
of Subjects or
Debts be
within another
territory, if
duly indorsed.

- And be it Enacted, That on and after the said *First day of October* it shall not be competent to poid the ground in respect of the principal
- 15 debt itself, either by virtue of the said Warrant, or Letters of Poiding of the Ground, but it shall be competent to do so only for the duties, annual rents, interest and arrears thereof as aforesaid, agreeably to the law heretofore existing as to diligence of Poiding of the Ground.

142.
Not compe-
tent to Poid
Ground for
principal
Debt.

- And be it Enacted, That where any Officer of the law shall execute a Poiding in virtue of Letters of Poiding of the Ground, or any other Warrant of Poiding of the Ground, he shall cause the poided goods to be valued by *Two* Valuators; and one valuation shall in every case be sufficient.
- 20

143.
Poided
Goods to be
valued.

- And be it Enacted, That the said Officers shall leave the poided effects with the Person in whose possession they were when poided, and he shall deliver to the Possessor a Schedule specifying the poided effects, and the Creditor at whose instance they were poided, and the value thereof.
- 25

144.
Effects to be
left with, and
Schedule given
to the Pos-
sessor.

- And be it Enacted, That the said Officer shall, within *Eight Days* after the day on which the Poiding was executed, (unless cause shall be shown why the same could not be done within the period of *Eight Days*) report the execution thereof to the Sheriff, granter of the original Warrant; in which execution he shall specify the circumstances connected with the Poiding, and particularly the name and designation of the Creditor at whose instance they were poided, the effects poided, the value thereof, the names and designations of the Valuators, the Person in whose hands the effects were left, and the delivery of the Schedule as aforesaid; which execution shall be subscribed by him and the two Valuators, who shall also be witnesses to the Poiding without the necessity of any other witnesses.
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- 35

145.
Officer to
report Poid-
ing within
Eight Days.

146.

Sale to be advertised, and notice given to the Debtor and Possessor.

And be it Enacted, That on the Report being made, the Sheriff shall, if necessary, give orders for the security of the effects, and if no cause be shown to the contrary, he shall grant Warrant to sell them by public roup, at such time and at such place, and upset price, and at the sight of such person as Judge of the roup, and to publish such notice of the sale, with power to such Judge to diminish the upset price to a certain extent, if the upset price be not offered, all as may appear to the Sheriff most expedient for all concerned: Provided, That the sale shall not take place sooner than *Eight Days*, nor at a longer period than *Twenty Days* after the date of the publication of the said notice of sale; and the Sheriff shall order a copy of the Warrant of Sale to be served on the Debtor and on the Possessor of the poinded effects (if he be a different person from the Debtor) at least *Six Days* from the date of the sale.

147.

Effects to be sold or delivered to Poin ding Creditor.

And be it Enacted, That the poinded effects shall be offered for sale, and sold as ordered; but if no Offerer appear, the effects, or such part as shall satisfy the debt, interest and expenses due to the Poin ding Creditor, shall be delivered by the Judge of the roup to the Poin ding Creditor, or to his authorized Agent.

148.

Report and price to be lodged.

And be it Enacted, That on the effects being sold, or delivered as aforesaid, the Judge of the roup shall, within *Eight Days* after the date of the sale, make a Report to the Sheriff of such sale or delivery; and if the effects shall have been sold, he shall also, within the said space of *Eight Days*, lodge with the Sheriff-Clerk the Roup-rolls, or certified copies thereof, and an account of the sum arising from, and of the expenses of the sale; which sum he shall, within *Eight Days*, lodge in the hands of the Sheriff-Clerk; and the said sum, after deduction of lawful charges, shall, if no cause be shown to the contrary, be ordered by the Sheriff to be paid to the Poin ding Creditor (provided the amount does not exceed the amount of the debt, interest and expenses); and the report and relative documents, when lodged, shall be patent to all concerned, on payment of a fee of *One Shilling* only.

149.

Creditor entitled to purchase.

And be it Enacted, that where any effects are exposed to sale as aforesaid, it shall be lawful for any Creditor to purchase the same.

150.

Unlawful Intromitter liable to imprisonment and *Double* the appraised value.

And be it Enacted, That if any Person shall unlawfully intromit with, or carry off the poinded effects to disappoint the Poin ding, he shall be liable, on complaint to the Sheriff of the county where the goods were poinded, or where he is domiciled, to be imprisoned till he restore the effects, or he shall be liable in *Double* the appraised value, which may be recovered by a Petition to the Sheriff of the county within which the effects were poinded, or within which the party so intromitting or carrying off is domiciled, or by an ordinary action before the Court of Session, at the instance of the Poinder.

And

And be it Enacted, That on and after the said *First* day of *October*, in all competitions of Poindings of the Ground, the real right of the person Poinding the Ground shall be held to have taken effect at the date of the execution of the said Warrant of Service ; and where such

5 Warrant of Service has been executed, prior to the date of the execution of service granted in another petition for Poinding the Ground, or prior to the execution of Letters of Poinding of the Ground, or to the execution of a Writ of Extent, or to the execution of an Arrestment or Poinding, or to the date of the completion of an Assignment, or to the

10 date of the first Deliverance in a sequestration of the estates of the Debtor, the Person whose Warrant of Service has been first executed as aforesaid shall be preferred.

151.
Poinder of the Ground to be preferred, if Warrant of Service executed prior to certain dates.

And be it Enacted, That nothing herein contained in regard to Poindings of the Ground shall affect the jurisdiction of the Court of Session ;

15 or the Landlord's right of hypothec for rents, or any other hypothec known in law, in so far as the same may be preferable to such Poinding ; nor the rules relative to Poindings of the Ground, in the case of Sequestration being awarded in terms of an Act passed in the present Session of Parliament, intituled, " An Act for regulating the Sequestra-

20 tion of the Estates of Bankrupts in Scotland."

152.
Act not to affect jurisdiction of the Court of Session ; Landlord's Hypothec ; or Rules where Sequestration is awarded.

And be it Enacted, That all Deliverances, Schedules and Executions may be either printed or in writing, or partly both ; and that more than *One* Witness shall not be required for service or execution.

153.
Deliverances, &c., may be printed or written: one Witness sufficient.

And be it Enacted, That this Act may be repealed, altered or amended by any Act or Acts passed during the present Session.

154.
Act may be repealed, &c.

SCHEDULES

REFERRED TO IN THE FOREGOING ACT.

No. 1.

DENUNCIATION OF INSOLVENCY.

I, A. B. [*say Messenger or Sheriff Officer, as the case may be*], notify to you, C. . [*insert name and designation*], that you, having disobeyed the charge given to you [*say personally, or at your dwelling-house or place of business, or at the Office of Citations, as the case may be*], by [*name the Messenger or Officer by whom it was given*], on the day of . . . to pay to E. F. [*name and designation*] the sum [*mention the sum for which the charge was given*], by virtue of [*give the description of the diligence*], dated the . . . day of . . . ; therefore you are hereby denounced Insolvent in terms of the Statute thereanent. This I do on the . . . day of . . . , before [*insert name and designation of one witness.*]

G. H. [*witness to sign here*] witness.

(signed) A. B.

No. 2.

EXECUTION OF DENUNCIATION.

UPON the . . . day of . . . I, A. B. [*say Messenger at Arms or Sheriff Officer, as the case may be*], notified to C. D. [*insert name and designation*], that in consequence of having disobeyed the charge given to him by [*name the Messenger or Officer*] on the . . . day of . . . to pay to E. F. [*give the name and designation*] the sum [*mention the sum for which the charge was given*], by virtue of [*give the description of diligence*], dated the . . . day of . . . ; therefore I denounced the said C. D. Insolvent, in terms of the Statute thereanent, by delivering to him a denunciation [*say personally, or at the dwelling-house or place of business, or at the Office of Citation, as the case may be*], which denunciation did bear the date hereof, and was subscribed by me, with the name and designation of G. H. witness [*mention name and designation*] hereto with me subscribing, present at the premises.

G. H. [*witness to sign here*] witness.

A. B.

No. 3.

CERTIFICATE OF REGISTRATION OF DENUNCIATION.

THE above execution of denunciation was presented by [*name and designation*], and registered . . . day of . . .

A. B.

No. 4.

WARRANT TO BE SUBJOINED TO EXTRACTS IN THE COURT OF SESSION, &c.

AND the said Lords grant Warrant to Messengers-at-Arms in His Majesty's name and authority, to charge the said A. personally, or at his dwelling-place, if within Scotland, and if furth thereof, by delivering a copy of Charge at the Record Office of the Keeper of the Records of the Court of Session, [*state what the party is decerned to do if to pay money, specify the sum, interest and expenses; or if to fulfil an obligation, specify it as in the Decree or other document,*] and that to the said B. [*the name and designation of the Person in whose favour the Decree is pronounced*] within [*insert the appropriate days*] next after he is charged to that effect, [*if the sum or any part thereof be payable at a future time, add here, "the terms of payment being always first come and bygone;"*] and also in payment and satisfaction of the said sum, interest and expenses grant Warrant to arrest the said A.'s readiest goods, gear, debts and sums of money; and if the said A. fail to obey the said charge, then to apprize, poind and distrain all the said A.'s readiest goods, gear, and other effects; and also to search for, take and apprehend the Person of the said A.; and being so apprehended to put him in sure ward, firmance and captivity within a tolbooth or other warding place, therein to remain aye and until he fulfil the said charge; and grant Warrant to Magistrates and Keepers there to receive and detain him therein accordingly; and if needful for effecting the said poinding or apprehension, grant Warrant to open all shut places in form as effairs. Extracted [*specify place and date.*]

[*Extractor's signature.*]

No. 5.

CERTIFICATE OF REGISTRATION OF EXECUTION OF CHARGE.

PRESENTED by A. B. [*name and designation*], and registered in the General Register of Hornings on the day of .

[*Keeper's signature.*]

No. 6.

MINUTE IN BILL CHAMBER FOR WARRANT TO IMPRISON.

[*Place and Date.*]

THE Charge being expired and registered, as per Execution and Certificate produced, Warrant to imprison is craved.

(signed) A. B., W. S.

[*The Clerk will subjoin*]

Fiat ut petitur.

[*Dated and signed by the Clerk.*]

No. 7.

MINUTE BY ASSIGNEE, &c.

[*Place and Date.*]

WARRANT is craved [*state what is prayed for*] at the instance of [*name and designation of the applicant*] as [*assignee or otherwise, as the case may be*], of [*name and designation of the Person at whose instance the Extract was issued.*] Produced herewith [*assignation or confirmation, or other legal evidence of the acquired right, as the case may be*], dated the day of [*and (if for imprisonment) also Execution of expired Charge and Certificate of Registration.*]

(signed) A. B.

[*The Clerk will subjoin*]

Fiat ut petitur.

[*Dated and signed by the Clerk.*]

No. 8.

WARRANT TO BE SUBJOINED TO SHERIFF COURT EXTRACTS.

AND I, the said Sheriff, grant Warrant to Messengers at Arms and Officers of Court to charge the said A. personally, or at his dwelling-place [*state what the party is decerned to do, if to pay money specify the sum, interest and expenses; or if to fulfil an obligation, state the nature of it, as in the Decree or other document*], and that to the said B. [*name and designation of the Person in whose favour the Decree is pronounced*], within [*insert the appropriate days*] next, after he is charged to that effect [*if the sum or document or any part be payable at a future time, add here, "the terms of payment being first come and bygone"*]; and also grant Warrant in satisfaction of the said sum, interest and expenses to arrest the said A.'s readiest goods, debts and sums of money; and if the said A. fail to obey the said Charge, then to apprise, poind and distrain all the said A.'s readiest goods, gear and other effects; and also to search for, take and apprehend the Person of the said A.; and being so apprehended to put him in sure ward, firmance and captivity within a tolbooth or other warding place, therein to remain aye and until he fulfil the said Charge; and grant Warrant to Magistrates and Keepers thereof to receive and detain him therein accordingly; and if needful for effecting the said poinding or apprehension, grant Warrant to open all shut places in form as effeirs. Extracted, &c.

[*Extractor's signature.*]

No. 9.

CERTIFICATE OF REGISTRATION OF EXECUTION OF CHARGE IN SHERIFF COURT.

PRESENTED by A. B. [*name and designation*], and registered in the particular Register of Hornings for the Shire of _____ on the _____ day of _____

[*Keeper or Clerk's signature.*]

No. 10.

MINUTE IN SHERIFF COURT FOR WARRANT TO IMPRISON.

[*Place and Date.*]

THE Charge being expired and registered, as per Execution and Certificate produced, Warrant to imprison is craved.

(signed) A. B.

[*The Clerk will subjoin*]

Fiat ut petitur.

[*Dated and signed by the Clerk.*]

No. 11.

MINUTE IN SHERIFF COURT BY ASSIGNEE, &c.

[*Place and Date.*]

WARRANT is craved [*state what is prayed for*] at the instance of [*name and designation of the applicant,*] as [*assignee or otherwise, as the case may be*] of [*name and designation of the Person at whose instance the Extract was issued, and in whose right the applicant is*] produced herewith, [*assignation or confirmation, or other legal evidence of the acquired right, as the case may be,*] dated the _____ day of _____, [*and also Execution of expired Charge and Certificate of registration.*]

(signed) A. B.

[*The Clerk will subjoin*]

Fiat ut petitur.

[*Dated and signed by the Clerk.*]

No. 12.

MINUTE FOR WARRANT OF CONCURRENCE.

[Place and Date.]

WARRANT of Concurrence by the Lords of Council and Session is craved at the instance of [*specify name and designation of applicant*] for executing the within Warrant against the within designed [*specify name of debtor or obligant*]. A. B.

[If the application is to a Sheriff, leave out "Lords of Council and Session," and say, Sheriff of [*inserting the shire*.]

[The Clerk of the Bills or the Sheriff, as the case may be, will subjoin]

Fiat ut petitur.

[Dated and signed by the Clerk of the Bills, or Sheriff, as the case may be.]

No. 13.

LETTERS OF INHIBITION.

WILLIAM the Fourth, [*or the King for the time*], by the Grace of God of the United Kingdom of Great Britain and Ireland King, Defender of the Faith. To Messengers-at-Arms, conjunctly and severally. Whereas it is humbly shewn to us by [*insert the name and designation of the party at whose instance the letters are raised*], complainer, against [*insert the name and designation of the party against whom the letters are raised*], That [*set forth the nature of the document of debt or obligation, as, a bill, bond, contract, &c., its general tenor, and particularly the debt or obligation, the date thereof, and if recorded, the date and place of recording; or if the letters be raised on the dependence of a summons, state the general nature of it, the Court before which it depends, the conclusions, and the date of execution*], and the said [*insert the name of the party against whom the letters are directed*], intending, as the complainer is informed, to sell, alienate, burden, resign, renounce, convey or put away his heritable subjects, and to uplift debts heritably secured and due to him, and to contract debts, and do other acts and deeds to the complainer's prejudice, as is alleged: Our will is, That ye, in Our name and authority, inhibit the said [*insert the name of the party against whom the letters are directed*], personally, or at his dwelling-place, if within Scotland, and if furth thereof, by delivery of a copy hereof at the Record Office of the Keeper of the Records of the Court of Session, in terms of law, that he in no way sell, alienate, burden, resign, renounce, convey or put away his lands and other heritable subjects or rights, or uplift heritable debts, or contract or take on debts, or grant securities therefor, or do any other act or deed, directly or indirectly, whereby the rights to the said lands and others may be in any way evicted or adjudged from him, or he be denuded thereof, to the prejudice of the complainer; which to do, We hereby commit to you, and each of you, full power. Given under Our signet, at Edinburgh, the day of in the year of Our reign, one thousand eight hundred and

Ex Deliberatione Dom. Con.

No. 14.

WARRANT OF INHIBITION IN A SUMMONS.

AND farther, Our will is, That ye, in Our name and authority, inhibit the said [*insert the name of the Defender*] personally, or at his dwelling-place, if within Scotland, and if forth thereof, by delivery of a copy hereof at the Record Office of the Keeper of the Records of the Court of Session, in terms of law, that he in no way sell, alienate, burden, resign, renounce, convey or put away his lands and other heritable subjects or rights, or uplift heritable debts, or contract or take on debts, or grant securities therefor, or do any

other act or deed, directly or indirectly, whereby the rights to the said lands and others may be in any way evicted or adjudged from him, or he be denuded thereof, to the prejudice of the Pursuer; which to do, We hereby commit to you, and each of you, full power. Given under Our signet, at Edinburgh, the day of
in the year of Our reign, one thousand eight hundred, and

No. 15.

CERTIFICATE OF REGISTRATION OF EXECUTION OF INHIBITION.

THESE Letters [or this Summons] and Execution presented by A. B. [designation] and registered in the [General or particular Register of Inhibitions, &c., as the case may be], on the day of

(signed) A. B., Keeper.

No. 16.

ABBREVIATE OF DECREE OF ADJUDICATION.

IN the Action of Adjudication raised at the instance of [name and design the Pursuer] against [name and design the Defender], and in which comparance was made for [if a conjoined Creditor be the party applying for the Extract, mention his name and designation, and that he is a conjoined Pursuer], the Lord as Ordinary, and the Lords of Council and Session by him, on the day of adjudged the Lands and others hereinafter mentioned, belonging to [name the Defender] to pertain and belong to [the Pursuer or the conjoined Creditor, as the case may be], in payment [or in security, as the case may be] of the accumulated sum, as at the date of the Decree, of [insert the precise sum as accumulated], videlicet, All and whole [enumerate the lands, &c., as mentioned in the Summons], subject always to redemption by the said [Defender] in terms of law.

Extracted on the
the Court of Session.

day of

by me, one of the Extractors of

[Signed by the Extractor.]

No. 17.

CERTIFICATE OF REGISTRATION OF ABBREVIATE OF ADJUDICATION.

THE prefixed Abbreviate was presented by A. B. [designation], and duly recorded on the day of in the volume of the Register of Abbreviates of Adjudications.

A. D., Keeper.

Bankruptcy (Scotland.)

A
B I L L

To amend the Law of Scotland in matters relating to Bankruptcy, Personal Diligence, Arrestments, Poining of Goods, Inhibitions, Adjudications, Judicial Sales, Powers of Sale, and Poinings of the Ground.

(Prepared and brought in by
The Lord Advocate and Mr. Attorney General.)

Ordered, by The House of Commons, to be Printed,
21 March 1837.

4 July 1837.—1 VICT.



(Ireland).

A

B I L L,

INTITULED,

AN ACT to appoint a Second Commissioner of Bankrupt in *Ireland*; and to amend an Act passed in the Sixth and Seventh Years of the Reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act to amend the Laws relating to Bankrupts in *Ireland*."

[Note.—The Figures in the Margin denote the Number of Folios in the Written Copy.]

- 1 **W**HEREAS by an Act passed in the last Session of Parliament, in the sixth year of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act to amend the Laws relating to Bankrupts in *Ireland*," it was enacted, that it should be lawful for the Lord Lieutenant or other Chief Governor or Governors of *Ireland* for the time being to appoint a fit and proper person, being a Barrister at Law of not less than Ten Years' standing at the bar, to be the Commissioner in all Commissions of Bankrupt to be issued pursuant to said recited Act, and to be called the Commissioner of Bankrupt, which Commissioner so to be appointed should hold his office during good behaviour; and that all Commissions of Bankrupt issued under the Great Seal of that part of the United Kingdom called *Ireland*, by virtue of the said recited Act, should be issued to the said Commissioner; and that there should be paid and payable out of the monies standing to the Bankruptcy and Compensation Fund Account to the Commissioner of Bankrupt to be appointed by virtue of said recited Act the yearly sum of One thousand five hundred Pounds by four quarterly payments, as therein mentioned:
- 2

Preamble:

6 & 7 W. 4.
c. 14.

Public Service
requires a
Second Com-
missioner.

And whereas *John Macan*, Esquire, one of Her Majesty's Counsel at Law, was duly appointed the Commissioner of Bankrupt under the said recited Act, and it has been found that the business of the Court of the said Commissioner of Bankrupt and of matters in Bankruptcy therein cannot be discharged by One Commissioner, and that the public service requires that a Second Commissioner of Bankrupt should be appointed for the due discharge of said business ;

1.
Her Majesty
may appoint
a Second Com-
missioner.

BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the passing of this Act, it shall and may be lawful for Her Majesty, Her heirs and successors, by Commission under the Great Seal of *Ireland*, to appoint a fit and proper person, being a Barrister at Law of not less than Ten Years' standing at the bar, to be a Commissioner of Bankrupt in *Ireland*, and to be called the Second Commissioner of Bankrupt, which said Second Commissioner so to be appointed shall hold his office during good behaviour, notwithstanding the demise of Her Majesty (whom God long preserve) or any of Her heirs and successors : Provided always, That it may be lawful for Her Majesty, Her heirs and successors, to remove such Second Commissioner upon the Address of both Houses of Parliament.

2.
Oath of
Second Com-
missioner.

And be it Enacted, That such Second Commissioner, before he shall be capable of acting in the execution of any of the powers and authorities given him by virtue of this Act and the said recited Act, shall take the oath in the said recited Act contained and directed to be taken by the Commissioner of Bankrupt under the said recited Act ; and that all Commissions of Bankrupt to be issued under the Great Seal of that part of the United Kingdom called *Ireland* shall be issued to both said Commissioners : Provided however, That each of the said Commissioners shall have full power, jurisdiction and authority to proceed in the execution of any Commission, in the absence of the other, as fully and effectually to all intents and purposes as if such Commission was directed to him alone ; and every act of any one Commissioner, in the absence of the other, shall be as valid as if done by both, save only that it shall not be lawful for any one Commissioner, without the consent of the other, to rescind any order made by the other when sitting alone.

All Commis-
sions to be
issued to both.
Full power to
either Com-
missioner to
act alone.

3.
The Second
Commis-
sioner to have
all the powers,
&c. of Com-
missioner
under
6 & 7 W. 4.
c. 14.

And be it Enacted, That the said Second Commissioner to be appointed under this Act shall have, as well in all Commissions now subsisting as in those to be hereafter issued, all and every the rights, powers, jurisdiction and authority, and be subject to all the duties of any Commissioner appointed or to be appointed under the said recited Act, and that

that all and every the enactments, clauses and provisions of the said recited Act shall extend and be applied to the said Second Commissioner of Bankrupt, to all intents and purposes whatsoever, as fully and effectually as if such Second Commissioner were appointed under the said recited Act.

And be it further Enacted, That upon the death, resignation or removal of the First Commissioner already appointed or to be appointed under the powers of this Act, it shall not be lawful for the Lord Lieutenant or other Chief Governor or Governors of *Ireland* for the time being to appoint any person to be the First Commissioner in place of such First Commissioner so dying, resigning or removed, but it shall and may be lawful for Her Majesty, Her heirs and successors, by Commission under the Great Seal of *Ireland*, to appoint a fit and proper person, being a Barrister at Law of not less than Ten Years' standing at the bar, to be a Commissioner of Bankrupt in *Ireland*, and to be called the First Commissioner of Bankrupt, and to exercise all the duties, and to have all the rights, incidents and privileges, specified in the said recited Act with respect to the Commissioner of Bankrupt whom the Lord Lieutenant or other Chief Governor or Governors of *Ireland* for the time being were by the said recited Act authorized to appoint.

4.
Her Majesty may appoint First Commissioner when vacancy may occur.

And be it further Enacted, That the First Commissioner already appointed, or any other First Commissioner appointed upon his death, resignation or removal, shall hold his office notwithstanding the demise of Her Majesty (whom God long preserve) or any of Her heirs and successors, and shall not be removed by the Lord Lieutenant or other Chief Governor or Governors of *Ireland* for the time being, any law or statute to the contrary notwithstanding: Provided always, That it may be lawful for Her Majesty, Her heirs and successors, to remove such First Commissioner or such other Commissioner upon the Address of both Houses of Parliament.

5.
First Commissioner to hold his Office notwithstanding demise of Her Majesty.

And be it Enacted, That it shall and may be lawful for the Lord Chancellor of *Ireland*, if he shall think it necessary for the proper discharge of the business of the Court of said Commissioners, to appoint some proper person to act as Assistant Registrar of said Court, and to direct that a salary not exceeding Three hundred Pounds per annum shall be paid to him out of the said Bankruptcy and Compensation Fund, and from time to time to remove such Assistant Registrar if he shall think fit, and on his removal, or on his resignation or death, to appoint another person in his place.

6.
Power to appoint Assistant Registrar.

AND whereas it is by the said recited Act enacted, that any person or persons acting as Messenger or Messengers, and who shall issue any

7.
Repeal of Provision in recited Act as to Messengers

offending by
suing out
Commissions
of Bank-
ruptcy, &c.

Commission of Bankruptcy, or when issued out shall act as agent in such Commission, shall from such time be considered incapable for ever after of holding the office of Messenger in any Commission of Bankrupt; BE it Enacted, That the said last-recited enactment be and the same is hereby Repealed.

8.
Provision in
lieu thereof.

And be it Enacted, That if any Messenger or Messengers shall sue out or prosecute any Commission of Bankrupt, or shall act as agent in any Commission of Bankruptcy, he or they shall from such time be incapable for ever after of holding the office of Messenger in any Commission of Bankrupt; and every Messenger shall, before the Commissioner executes his warrant of seizure to him, take before the Commissioner the oath required by the said recited Act.

9.
Attorney
General may
sue for
Penalties for
taking unlaw-
ful Fees, &c.

And be it further Enacted, That if any person shall take any fee, emolument, gratuity, sum of money, or thing of value contrary to the provisions of the said recited Act, such person so offending shall be subject and liable to all the penalties and forfeitures enacted by the said Act, and may be prosecuted either by information at the suit of Her Majesty's Attorney General, or by criminal information before Her Majesty's Court of Queen's Bench, or by indictment.

10.
Persons im-
prisoned under
Provisions of
Acts for Riots,
&c. in Court,
not to be
prosecuted by
Attorney
General.

And be it further Enacted, That no person who under the provisions of the said recited Act and of this Act shall be punished or liable to be punished by imprisonment for riot or disturbance in any Court held by any Commissioner or Commissioners of Bankrupt, or for interrupting in any such Court the Commissioner in the exercise of his duty, shall be prosecuted for such offence or offences by information at the suit of Her Majesty's Attorney General, or by criminal information before Her Majesty's Court of Queen's Bench, or by indictment; any thing in the said recited Act to the contrary notwithstanding.

11.
Demise of
Crown not to
abate Com-
missions.

And be it Enacted, That no Commission of Bankrupt heretofore issued, or which shall hereafter be issued, shall be deemed to have abated or shall abate by reason of the demise of the Crown, or by the removal, death or resignation of the Commissioner or Commissioners named therein; and when the Commissioner or Commissioners named in any such Commission shall die, resign or be removed, his or their successor and successors in office for the time being shall execute such Commission.

12.
Commence-
ment of Act.

And be it Enacted, That this Act shall commence and take effect on and from and after the Fifteenth day of July One thousand eight hundred and Thirty-seven; and that this Act may be repealed, altered or amended during this present Session of Parliament.

Act may be
altered.

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Bankrupts (Ireland).

A

B I L L,

INTITULED,

AN ACT to appoint a Second Commissioner of Bankrupt in *Ireland*; and to amend an Act passed in the Sixth and Seventh Years of the Reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act to amend the Laws relating to Bankrupts in *Ireland*."

Ordered, by The House of Commons, to be Printed,

4 July 1837.

10 February 1837.—7 WILL. IV.

A

B I L L

To amend an Act of the Fourth and Fifth Years of His present Majesty, for the Sale of Beer and Cider by retail in England.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WH **E**R **E**A **S** an Act was passed in the fourth and fifth years of His present Majesty's reign, intituled, "An Act to amend an Act passed in the first year of His present Majesty, to permit the general Sale of Beer and Cider by retail in England:" And whereas much evil still continues to exist in the management and conduct of houses in which Beer and Cider are sold by retail under the provisions of the said recited Act in rural districts; and it is expedient to amend the provisions of the said Acts in certain particulars; **15** **E** it **therefore Enacted**, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, **THAT** from and after the *commencement of this Act*, every Person licensed to sell Beer by retail to be drunk on the premises, desirous of renewing his said License, shall produce to the Persons authorized to renew the same a similar Certificate to that required by an Act passed in the fourth and fifth years of the reign of His Majesty King WILLIAM the Fourth, intituled, "An Act to amend an Act passed in the first year of His present Majesty, to permit the general Sale of Beer and Cider by retail in England," save and except that two of the subscribing parties shall be the Clergyman and Constable of the Parish.

Preamble:
4 & 5 Will. 4.

1.
No Licenses for sale of Beer to be drunk on the Premises, renewable without the previous production of a Certificate in the Form prescribed by 2d Sect. of 4 & 5 Will. 4, c. 85, signed by the Parish Clergyman and Constable.

2.
Constable, on refusal or default, liable to be fined not exceeding £. 10.

And be it further Enacted, That if such Constable shall refuse to subscribe his name to such Certificate, or shall neglect to insert thereon

thereon whether such applying Person has or has not to the best of his knowledge and belief been convicted of any offence against the enactments of the said recited Act, or against an Act passed in the first year of the reign of His Majesty King WILLIAM the Fourth, intituled, "An Act to permit the general Sale of Beer and Cider by retail in England," or shall fail to specify thereon the number of such convictions of such applying Person within the preceding *Twelve Months*, he the said Constable shall, on conviction before *Two Justices of the Peace*, forfeit and pay any sum not exceeding *Ten Pounds*, or in default of payment thereof be committed to the House of Correction for *Two* calendar Months. 5 10

3.
Licenses not renewable for increasing periods, if Persons licensed convicted of any offence under said Acts.

And be it further Enacted, That if any Person licensed as aforesaid shall have been within the *Twelve Months* preceding his application for such renewal convicted of any offence against the enactments of the said recited Acts, his License shall not be renewed for *Six Months*; or if he shall have been convicted of a second offence against the same within the same period, his License shall not be renewable for *Twelve Months*; or if he shall have been convicted of a third offence against the same, and within the same time, his License shall not be renewable for *Two Years*. 15 20

4.
Any Person obtaining a Renewal contrary to the provisions of last preceding Clause, liable to be fined £. 20.

And be it further Enacted, That if any Person shall obtain the renewal of his License contrary to the provisions of the above-recited Section, he shall, on conviction before *Two Justices of the Peace*, forfeit and pay *Twenty Pounds*, and in default of payment shall be committed to the House of Correction for any time not exceeding *Six Months*, nor less than *Two*, and be disqualified from selling Beer for *Two Years*. 25

5.
Any Constable refusing to inspect any licensed Premises, liable to Fine and Imprisonment.

And be it further Enacted, That if any Constable or other Peace Officer shall refuse or neglect to visit the house and premises of any Person licensed as aforesaid, and within his Parish, upon the demand of any Rate-payer thereof, the said Rate-payer having first tendered to him his reasonable expenses for the same, or if, on so visiting the said house and premises, he shall find the Person so licensed transgressing or permitting others to transgress any of the enactments of the said recited Acts, and shall refuse or neglect to lay information thereof before *Two* of His Majesty's Justices of the Peace for the County in which the said offence or offences shall have been committed, and to prosecute with effect the said offender or offenders, under the provisions of the said recited Acts, he, the said Constable or other Peace Officer, shall, on conviction before *Two Justices of the Peace*, forfeit and pay any sum not exceeding *Ten Pounds*, and in default of payment shall be committed to the House of Correction for any time not exceeding *Two Months*. 30 35 40

And

(3)

And be it further Enacted, That all Penalties under this Act shall be recovered (except where otherwise enacted) and appropriated in the same manner as those under the said recited Act of the first year of the reign of His Majesty King WILLIAM the Fourth.

6.
Penalties,
how to be
recovered.

5 AND whereas doubts have arisen as to the legal hours for opening and closing houses licensed to sell Beer and Cider by retail to be drunk on the premises, in cases in which the Justices of the Peace have omitted to fix the hours at which houses so licensed shall be opened and closed; BE it therefore Enacted, That in all cases in which
10 the Justices acting for the district or place in which the houses so licensed shall be situate, shall have omitted to fix the hours for opening and closing, the hour of opening shall not be earlier than *Seven* of the clock in the morning, nor for closing later than *Ten* of the clock at night, or before *One* of the clock in the afternoon on Sunday, Good
15 Friday, Christmas-day or any day appointed for a Public Fast or Thanksgiving.

7.
Declaration
as to legal
hours for
opening and
closing of
Houses.

And be it further Enacted, That this Act shall extend to all places in England and Wales, not being within the limits of a city or borough town; and shall commence and have effect from and after the
20 *Thirty-first day of August One thousand eight hundred and Thirty-seven.*

8.
Act to extend
throughout
England and
Wales, ex-
cept within
any City or
Borough, and
to commence
from the
31st August
1837.

And be it further Enacted, That every Person applying for a License to sell Beer and Cider by retail, not to be drunk or consumed on the premises, shall annually produce to and deposit with the Commissioners
25 of Excise the same certificate, and be subjected to the same provisions as is and are required by the Second Section of the said recited Act of the fourth and fifth years of the reign of His Majesty King WILLIAM the Fourth.

9.
Certificate in
the Form
prescribed by
the 2d Sec-
tion of the
4 & 5 Will. 4,
c. 85, requi-
site for the
renewal of
Licenses for
the sale of
Beer to be
drunk off the
Premises.

And be it further Enacted, That the Penalty of the Seventeenth Sec-
30 tion of the said recited Act for selling Beer to be drunk or consumed on the premises without having an Excise License in force authorizing such sale, be hereby made recoverable before any *Two* of His Majesty's Justices of the Peace, in the same manner as other penalties under the said recited Act are made recoverable before them, and with
35 the same power to mitigate the same.

10.
Penalty given
by 17th Sec-
tion of same
Act, how
recoverable.

And be it further Enacted, That all Constables and other Peace Officers shall hereby have the same power to enter into houses licensed to sell Beer by retail not to be drunk or consumed on the premises, as they have to enter into those licensed to sell Beer to be drunk or consumed on the premises, according to the provisions of the
Seventh Section of the said recited Act; and that all the provisions and

11.
Power to
Constables to
enter Pre-
mises licensed
for the sale of
Beer not to be
drunk on the
Premises.

penalties of the said Section shall be equally in force as relating to the former houses, as they now are as to the latter.

12.
No License
to be granted
to any House
not within
500 Yards of
some House,
Turnpike-
road, &c.

And be it hereby further Enacted, That no License to sell Beer or Cider by retail shall be granted to the Owner of any House which is not situated within *Five hundred* Yards of some other inhabited house, or upon some turnpike-road, railroad or canal. 5

Sale of Beer.

A

B I L L

To amend an Act of the Fourth and Fifth Years of His present Majesty, for the Sale of Beer and Cider by retail in England.

(Prepared and brought in by

Mr. Arthur Trevor and Mr. Grove Price.)

*Ordered, by The House of Commons, to be Printed,
10 February 1837.*

2 March 1837.—7 WILL. IV.

A

B I L L

For restraining and regulating the holding of Benefices in
Plurality, and for amending the Laws relating to the
Residence of the Clergy.

[Note.—The Words printed in *Italics* are proposed to be inserted in
the Committee.]

WH E R E A S an Act was passed in the twenty-first year of
the reign of King HENRY the Eighth, intituled, “An Act that
no Spiritual Persons shall take to ferm of the King, or any other
Person, any Lands or Tenements for Term of Life, Years, or at Will,
&c., and for Pluralities of Benefices and for Residence,” the whole
of which recited Act (excepting only such parts as relate to Pluralities
of Benefices) has since been repealed by an Act passed in the fifty-
seventh year of the reign of King GEORGE the Third, intituled, “An
Act to consolidate and amend the Laws relating to Spiritual Persons
holding of Farms; and for enforcing the Residence of Spiritual Per-
sons on their Benefices; and for the Support and Maintenance of
Stipendiary Curates in England:” AND whereas it is expedient to
consolidate and amend the said Laws, and to restrain the holding of
Pluralities, and to make further provision for enforcing the residence
of Spiritual Persons upon their Benefices, and to limit the exemp-
tions from such residence; and also to make further provision
respecting the appointment and support of Stipendiary Curates in
England; B E it therefore Enacted, by The KING’s most Excellent
MAJESTY, by and with the Advice and Consent of the Lords Spiritual
and Temporal, and Commons, in this present Parliament assembled,
and by the Authority of the same, THAT so much of the said recited
Acts as is now in force shall be and the same is hereby Repealed,
save and except only such part of the said last-recited Act as
repeals certain Acts and parts of Acts therein particularly recited:

Preamble:

21 H. 8, c. 13.

Partly re-
pealed by
57 G. 3, c. 99.1.
Both Acts
now wholly
repealed;

saving as to
Penalties
already in-
curred, or
Licenses
already
granted.

Provided always, That nothing herein contained shall exempt any person from any penalties incurred under the said last-recited Act, or take away or affect any proceedings for recovery thereof, whether commenced or not before the *passing of this Act*, or shall annul or abridge any license granted under the provisions of the said last-recited Act before the time of *passing this Act*, or within *One Month* thereafter.

5

2.

Not more
than Two
Preferments
to be held
together ;

And be it Enacted, That from and after the *passing of this Act* no Spiritual Person holding more Benefices than *One* shall accept or take to hold therewith any Cathedral Preferment, or any other Benefice ; and that no Spiritual Person holding any Cathedral Preferment, and also holding any Benefice, shall accept and take to hold therewith any other Cathedral Preferment, or any other Benefice ; and that no Spiritual Person holding any Preferment in any Cathedral or Collegiate Church shall accept or take to hold therewith any Preferment in any other Cathedral or Collegiate Church, any law, canon, custom, usage or dispensation to the contrary notwithstanding : Provided, That nothing herein contained shall be construed to prevent any Archdeacon from holding, together with his Archdeaconry, *Two* Benefices, *One* of which shall be situate within his Archdeaconry, or *One* Canonry in any Cathedral Church of the Diocese of which his Archdeaconry forms a part, and *One* Benefice situate within such Diocese, or to prevent any Spiritual Person holding any Cathedral Preferment with or without a Benefice, from holding therewith any Office in the same Cathedral or Collegiate Church, the duties of which are statutably or accustomably performed by the Spiritual Person holding such Preferment.

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15

20

25

3.
Nor Prefer-
ment exceed-
ing the yearly
value of *£*.
and Benefice
exceeding *£*.

And be it Enacted, That no Spiritual Person holding any Cathedral Preferment exceeding the yearly value of Pounds shall accept or take to hold therewith any Benefice exceeding the yearly value of Pounds ; and that no Spiritual Person holding any Benefice exceeding the yearly value of Pounds shall accept or take to hold therewith any Cathedral Preferment exceeding the value of Pounds.

30

4.
Nor Two
Benefices,
unless within
Ten Miles of
each other.

And be it Enacted, That no Spiritual Person holding any Benefice shall accept or take to hold therewith any other Benefice, unless it shall be situate within the distance of *Ten* Statute Miles from such first-mentioned Benefice.

35

5.
Two within
distance, and
below 500 *£*.
value may be
held together
(subject to the
Archbishop's
Veto, for

And be it Enacted, That any Spiritual Person holding *One* Benefice not exceeding the yearly value of *Five hundred* Pounds, and not having any Cathedral Preferment, may hold therewith *One* other Benefice, situate within the distance aforesaid, and not exceeding at the time of his admission, institution, or being licensed thereto,

40

thereto, the yearly value of *Five hundred Pounds*: Provided, That if both such Benefices shall be under the jurisdiction of the same Bishop, and the Bishop shall see reason to object to such *Two Benefices* being held together, he shall withhold admission, institution or license to such *Second Benefice*, until he shall have stated such reason in writing under his hand to the Archbishop of the Province in which such last-mentioned Benefice shall be situate, who shall inquire into the circumstances of the case, and shall decide whether institution, admission or license thereto shall be granted or not, such decision to be stated in writing under his hand: Provided also, That if such *Two Benefices* shall not be under the jurisdiction of the same Bishop, the Bishop having jurisdiction over the *Second Benefice* shall withhold admission, institution or license thereto, until he shall have ascertained from the Bishop to whose jurisdiction the First Benefice shall be subject, whether he has any objection to such Benefices being held together, and until he shall have stated to the Archbishop of the Province and received his decision, stated as aforesaid, on any objection which may appear to either of the said Bishops to exist to such *Two Benefices* being held together; and in each of the said cases such decision of the Archbishop shall be conclusive on all parties.

reasons shown
by the Bishop)

And be it Enacted, That in case it shall appear expedient to the Bishop, or to any *Two Bishops*, as the case may be, to whom any *Two Benefices* within the distance of *Ten Miles* from each other shall respectively be subject, one of which Benefices shall be above and the other below the said yearly value of *Five hundred Pounds*, that the Incumbent of one of such Benefices should, on account of the small value or the large population of either of them, be permitted to hold the said *Two Benefices* together, the said Bishop or Bishops shall be at liberty, upon application made to him or them for that purpose by such Incumbent, to state, in writing under his or their hand or hands, to the Archbishop of the Province within which the Benefice above the said yearly value shall be situate, the reasons which induce him or them to propose that such permission should be given, and the said Archbishop shall thereupon duly inquire into the circumstances of the case; and if upon such inquiry it shall seem fit to him to recommend the granting of such permission, it shall be lawful for His Majesty in Council, upon a statement of all the facts of the case to be made by the Archbishop in writing under his hand, to grant such permission; and the publication thereof in the *London Gazette* shall be a complete authority in law to such Spiritual Person, on being duly presented to such *Second Benefice*, to be admitted thereto and to hold such *Two Benefices* together.

6.
Or one above
and one below
that value, for
special reasons
assigned
by the Bishop
to the Arch-
bishop, and
allowed by
The King in
Council.

7.
Acceptance of
Preferment
contrary to
this Act
vacates all
former Pre-
ferment.

And be it Enacted, That if any Spiritual Person holding any Cathedral Preferment or Benefice shall accept any other Cathedral Preferment or Benefice, and be admitted, instituted or licensed to the same contrary to the provisions of this Act, every Cathedral Preferment or Benefice so previously held by him shall be and become ipso facto void, as if he had died or had resigned the same, any law, statute, canon, usage, custom or dispensation to the contrary notwithstanding; and if any Spiritual Person holding any *Two* Benefices shall accept and take any Cathedral Preferment (except the Office of Archdeacon of the Archdeaconry in which one of his said Benefices is situate), he shall, by writing under his hand, before he be instituted or licensed, or in any way admitted to the said Preferment, declare to the Bishop or Bishops to whose jurisdiction the said Benefices are subject, which of his said Benefices, if either, he proposes to hold with such Preferment, which declaration shall be at the same time entered in a book to be kept for that purpose and signed by him; and that immediately upon his being instituted or licensed or in any way admitted to such Preferment, the other of his said Benefices shall be and become ipso facto void, as if he had died or resigned the same, any law, statute, custom, usage or dispensation to the contrary notwithstanding; and if such Spiritual Person shall refuse or omit to make such declaration as aforesaid, both the said Benefices shall be and become ipso facto void as aforesaid.

8.
License or
Dispensation
for second
Preferment
unnecessary.

Provided always, and be it Enacted, That it shall not be necessary for any Spiritual Person to obtain any License or Dispensation to enable him to hold more than *One* Cathedral Preferment or Benefice under this Act; any law, canon, usage or custom to the contrary notwithstanding.

9.
Present
Rights of
Possession
saved.

Provided always, and be it Enacted, That nothing hereinbefore contained shall be construed to prejudice or affect the right of possession in any Cathedral Preferment or Benefice to which any Spiritual Person shall have been collated, admitted, instituted or licensed, or which shall have been otherwise granted to any Spiritual Person before the *passing of this Act*, unless he shall, after the *passing of this Act*, accept or take some Cathedral Preferment or Benefice contrary to the provisions of this Act.

10.
Acts 37 H. 8,
c. 21, and
17 C. 2, c. 3,
for uniting
Churches,
repealed;

AND whereas it is expedient to alter and amend the provisions made by an Act passed in the thirty-seventh year of the reign of King HENRY the Eighth, intituled, "An Act for the Union of Churches not exceeding the Value of Six Pounds," and by another Act passed in the seventeenth year of the reign of King CHARLES the Second, intituled, "An Act for uniting Churches in Cities and Towns Corporate;" BE it Enacted, That the said last-recited Acts shall be and the same are hereby Repealed.

And

And be it Enacted, That whenever it shall be represented to the Ecclesiastical Commissioners for England, by the Bishop of any Diocese, or by the Bishops of any *Two* Dioceses, that *Two* or more Benefices in his or their Dioceses, being contiguous to each other, and of which the aggregate population shall not exceed *One thousand five hundred* Persons, and the aggregate value shall not exceed *Five hundred* Pounds, may with advantage to the interests of religion be united into *One* Benefice, the said Commissioners shall inquire into the circumstances of the case; and if they shall be satisfied that such union may be usefully made, and that the Patron or Patrons of the said Benefices respectively are consenting thereto, such consent being signified in writing under the hands of such Patron or Patrons, such Commissioners shall certify the same to His Majesty in Council, and thereupon it shall be lawful for His Majesty in Council to make and issue an Order for uniting such Benefices into *One* Benefice, for Ecclesiastical purposes only; and it shall be lawful for His Majesty in Council to make such conditions as to residence, and the employment of a Curate or Curates, as may be deemed fitting, and to give directions for regulating the course and succession in which the Patrons, if there be more than one Patron, shall present to such united Benefice from time to time as the same shall become vacant, and for determining, if such united Benefice shall be in *Two* Dioceses, to which of such Dioceses such Benefice shall belong; and that such Order shall be registered in the Registry of the Diocese to which such united Benefice shall be determined to belong, and which Order the Registrar of such Diocese, immediately on the receipt thereof, is hereby required to register accordingly; and such Order shall thenceforth be binding on all parties whatsoever; and if in the case of the Union of *Two* Benefices, *One* of the said Benefices shall then be void; and, in the case of more than *Two* Benefices, if all but *One* of such Benefices should then be void, or if both or all, as the case may be, shall be held by the same Incumbent at the time of the registration of such Order, then immediately, or otherwise on the first avoidance of either of such Benefices in the case of *Two* Benefices, or of all but *One* in the case of more than *Two*, the said Benefices shall become permanently united together, and shall be and be deemed and taken to be *One* Benefice to all intents and purposes, unless and until the same shall be afterwards disunited in the manner hereinafter enacted; Provided always, That, notwithstanding any such Union, the Parishes or places of which such united Benefice shall consist shall continue distinct as to all secular rates, taxes, charges, duties and privileges, and in all other respects except as hereinbefore specified: Provided also, That the person or persons to whom the right of next presentation to such Benefices respectively shall belong shall for the purposes of this Act be deemed and taken to be the Patron and Patrons of such Benefices respectively, and that his or their consent to such union, signified as aforesaid, shall be and be deemed and taken to be sufficient for the purpose of such

11.
And their Provisions re-enacted, and made applicable to the union of contiguous Benefices of a certain population and value.

union, notwithstanding he or they may not be seised in fee-simple of the Advowsons of such Benefices or either of them, or shall be a Trustee or Trustees for some other person or persons.

12. United Benefice not to be further united where population and value of the whole exceed a certain amount.

Provided always, and be it Enacted, That whenever *Two* or more Benefices shall have been united into *One* Benefice under the provisions of this Act, nothing herein contained shall be taken to authorize or render lawful the union of any other Benefice or Benefices thereto in any case in which the aggregate value of such united Benefice, and of the Benefice or Benefices proposed to be united thereto, shall exceed the annual value of *One thousand Pounds*, or of which the aggregate population shall exceed *One thousand five hundred Persons*.

13. No Union except under this Act.

Provided always, and be it Enacted, That from and after the passing of this Act it shall not be lawful to unite *Two* or more Benefices into *One* Benefice in any other form or manner, or under any other circumstances, than is hereinbefore provided; and that if any such union shall be made in any other form or manner, or under any other circumstances, than as it is hereinbefore provided, the same shall be void to all intents and purposes whatsoever; any statute, law, canon, custom or usage to the contrary notwithstanding.

14. Provisions for disuniting united Benefices.

AND whereas, from the increase of population, or from other circumstances, it may be expedient that *Two* or more Benefices which have been heretofore united, or which may be hereafter united under the provisions of this Act, should be disuniting; BE it Enacted, That wherever the Bishop of any Diocese, or the Bishops of *Two* Dioceses, shall represent to the said Commissioners that any Benefices in his or their Diocese or Dioceses, which now are or which may be hereafter united into *One* Benefice, may be disuniting with advantage to the interests of religion, such Commissioners shall inquire into the circumstances of the case, and if they shall be satisfied that such union may be usefully dissolved, they shall certify the same to His Majesty in Council, and thereupon it shall be lawful for His Majesty in Council to issue an Order for dissolving such union, and directing that such Order shall be registered in the Registry of the Diocese to which such united Benefice shall belong, and which Order the Registrar of such Diocese, immediately on the receipt thereof, is hereby required to register accordingly; and thereupon immediately, if the said Benefice shall then be vacant, otherwise on the first avoidance thereof, such union shall be ipso facto dissolved, and thenceforward the Benefices which had been so united shall be and be deemed and taken to be separate and distinct Benefices to all intents and purposes whatever, and as if they had never been united; and the Patron or Patrons thereof shall and may present to the same respectively, and so from time to time as they or either of them shall become vacant.

And

And be it Enacted, That in any case in which His Majesty in Council shall have issued any such Order as aforesaid for disuniting *Two* or more Benefices theretofore united into *One* Benefice, it shall be lawful for the Incumbent thereof, if such Benefice shall be full at the time of the issuing of such Order, to resign *One* or more of the Benefices of which such united Benefice may consist, and thereupon it shall be lawful for the respective Patron or Patrons of the Benefice or Benefices which shall have been so resigned to present thereto in the same manner as if such united Benefice had been vacant at the time of issuing such Order.

15.
Incumbent
may resign
One or more
of disunited
Benefices,
and Patron
may present.

Provided always, and be it Enacted, That when more than *Two* Benefices shall have been united into *One* Benefice under the provisions of this Act, and the Bishop of any Diocese, or the Bishops of any *Two* Dioceses, shall represent to the said Commissioners that *One* or more of the Benefices within his or their Diocese or Dioceses, of which such united Benefice shall consist, may be separated therefrom with advantage to the interests of religion, such Commissioners shall inquire into the circumstances of the case; and if they shall be satisfied that such union may be usefully dissolved, so far as respects such Benefice or Benefices, they shall certify the same to His Majesty in Council, and thereupon it shall be lawful for His Majesty to issue an Order for separating such last-mentioned Benefice or Benefices from such united Benefice, and directing such Order to be registered in the Registry of the Diocese to which such united Benefice shall belong, and which Order the Registrar of such Diocese, immediately on the receipt thereof, is hereby required to register accordingly; and thereupon immediately, if such united Benefice shall be then vacant, otherwise on the first avoidance thereof, such union shall be ipso facto dissolved so far only as regards such Benefice or Benefices so proposed to be separated from such united Benefice, but in all other respects shall remain in full force and effect, and thenceforward such last-mentioned Benefice or Benefices shall be and be deemed and taken to be a separate and distinct Benefice or Benefices to all intents and purposes whatever, and as if no such union had taken place; and the Patron or Patrons thereof shall and may present thereto respectively, and so from time to time upon each and every avoidance of the same: Provided always, That in any case in which His Majesty in Council shall have issued any such Order as aforesaid for separating *One* or more Benefices from such united Benefice, it shall be lawful for the Incumbent thereof, if such united Benefice shall be full at the time of issuing such Order, to resign the Benefice or Benefices so proposed to be separated as aforesaid from such united Benefice; and thereupon it shall be lawful for the respective Patron or Patrons of such last-mentioned Benefice or Benefices to present thereto, in the same manner as if such united Benefice had been vacant at the time of issuing such Order.

16.
Further
provisions for
disuniting
united Bene-
fices.

17.
Portion of
Glebe, &c.
may be as-
signed to each
of the disse-
vered Bene-
fices;

And be it further Enacted, That whenever *Two* or more Benefices which have at any time been united into *One* Benefice shall be disunited and become separate Benefices under the provisions of this Act, it shall be lawful for His Majesty in Council, on the recommendation of the said Commissioners, with the consent of the Patron or Patrons of such Benefices respectively (such consent to be signified in writing under the hands of such Patron or Patrons), to assign and attach such portion of the Glebe Lands, Tithes, Rent-charges, Moduses or other endowments or emoluments belonging to or arising or accruing within the limits of such united Benefice, to each of such Benefices respectively as to His Majesty in Council shall seem fit, notwithstanding such proportion of Glebe Land, Tithes, Rent-charges, Moduses, or other endowments or emoluments, or any part thereof, may not arise or accrue within the limits of the Benefice to which the same shall be so assigned and attached as aforesaid, or may not have belonged thereto, and also to divide and apportion between such Benefices all such charges and outgoings as, before the disunion thereof, were imposed upon the whole united Benefice, and in the case of mortgages, with consent of the Mortgagees in writing under their hands and seals.

18.
And shall
belong to the
Incumbent.

And be it Enacted, That all such Lands, Tithes, Rent-charges, Moduses, or other endowments or emoluments, when so assigned and attached as aforesaid, shall belong to, and the same and the rents and profits thereof shall be recoverable by the Incumbent of the Benefice to which the same shall have been so assigned and attached.

19.
Provisions for
altering the
Shape and
Boundaries of
contiguous
Parishes.

AND whereas in some instances the boundaries of adjacent Parishes might be altered, and Chapels or Chapelries of Ease separated from the Parishes or Mother Churches to which they belong, with great advantage; BE it Enacted, That when any Bishop shall represent to the said Commissioners that the shape and boundaries of any two contiguous Parishes may be advantageously altered, or that any such Chapels or Chapelries of Ease may be advantageously separated from the said Parishes or Mother Churches, and united either to Benefices contiguous to them, under the limitations hereinbefore contained, or to other Chapelries of Ease similarly circumstanced, so as to form a separate Parish or Benefice, with such alterations of the boundaries of these and the adjacent Parishes as shall be provided for in this Act, and shall describe the mode in which it appears to him that the alteration may best be effected, and how the changes consequent on such alteration, in respect to Ecclesiastical Jurisdiction, Glebe Lands, Tithes, and other Ecclesiastical Dues, Rates and Payments, and in respect to rights to Pews, may be made with justice to all parties interested, the said Commissioners shall inquire into the circumstances of the case; and if the Patron or Patrons of the Benefice or Benefices to be affected by such alteration shall consent thereto (such consent to be given in writing under his or their hand), and the said

said Commissioners shall be satisfied therewith, and shall certify the same by their Report to His Majesty in Council, it shall be lawful for His Majesty in Council to make an Order for carrying such alteration into effect; and such Order being registered in the Registry of the Diocese, which the Registrar is hereby required to do, shall be forthwith binding on all persons whatsoever, including the Incumbent or Incumbents of the Benefice or Benefices to be affected thereby, if he or they shall have consented thereto; but if such Incumbent or Incumbents shall not have consented thereto, the Order shall not come into operation until the next avoidance of the Benefice by the Incumbent objecting to the alteration, or by the surviving Incumbent objecting, if more than one shall object thereto; and in such case the Order shall forthwith, after such avoidance, become binding on all persons whatsoever.

15 AND whereas the changes effected by virtue of the provisions aforesaid for uniting or disuniting Benefices, and for altering the boundaries of contiguous Parishes, may, when the Orders for those purposes respectively come into operation, raise doubts and create disputes, not foreseen at the time when such Orders may have been made, respecting Ecclesiastical Jurisdiction, Glebe Lands, Tithes, Rent-charges, and other Ecclesiastical Dues, Rates and Payments, right to Pews, and the definition of local boundaries; BE it Enacted, That it shall be lawful for His Majesty in Council, at any time within *Five* Years after such Orders respectively shall come into full operation, if occasion shall arise, to make a supplemental Order for removing all such doubts, and settling all such disputes; and every such supplemental Order shall have the same force and effect as if it had formed part of the original Order made under the provisions of this Act: Provided always, That in every case in which the boundaries of Parishes shall be so altered, such alteration shall not in any way affect the secular rates, taxes, charges, duties or privileges of such Parishes, or of any part of them.

20.
Power of
adjusting Dis-
putes arising
out of the
foregoing
alterations.

And be it Enacted, That it shall not be lawful for any Spiritual Person holding any Cathedral Preferment or Benefice, or any Curacy or Lectureship, or who shall be licensed or otherwise allowed to perform the duties of any Ecclesiastical Office whatever, to take to farm, for occupation by himself, by lease, grant, words or otherwise, for term of life or of years, or at will, any lands exceeding *Eighty* Acres in the whole, for the purpose of occupying or using or cultivating the same, without the permission in writing of the Bishop of the Diocese specially given for that purpose; and every such permission to any Spiritual Person to take to farm for the purpose aforesaid any greater quantity of land than *Eighty* Acres, shall specify the number of years, not exceeding *Seven*, for which

21.
Spiritual
Persons not
to take to
farm for occu-
pation above
Eighty Acres,
without con-
sent of the
Bishop, and
then not
beyond *Seven*
Years, under
penalty of
40 s. per Acre.

such permission is given ; and every such Spiritual Person who shall without such permission so take to farm any greater quantity of land than *Eighty Acres*, shall forfeit, for every acre of land above *Eighty Acres* so taken to farm, the sum of *Forty Shillings* for each year during or in which he shall so occupy, use or cultivate such land 5
contrary to the provision aforesaid.

22.
No Spiritual
Person
beneficed, or
performing
Ecclesiastical
duty, shall
engage in
Trade, or buy
to sell again
for profit or
gain.

Not to extend
to Spiritual
Persons en-
gaged in
keeping
Schools, or as
Tutors, &c.,
in respect of
any thing
done, or any
buying or
selling in such
employment;
or to selling
any thing
bonâ fide
bought for the
use of the
family ; or
buying and
selling Cattle,
&c. for the
use of his own
glebe or de-
mesne
lands, &c.

And be it Enacted, That no Spiritual Person holding any such Cathedral Preferment, Benefice, Curacy or Lectureship, or who shall be licensed or allowed to perform such duties as aforesaid, shall, by himself or by any other for him or to his use, engage in 10
or carry on any trade or dealing for gain or profit, or deal in any goods, wares or merchandise, by buying and selling for gain or profit in any market, fair or other place, upon pain of forfeiting the value of the goods, wares and merchandises by him, or by any to his use, bargained for or bought to sell again, contrary to this provision ; and that every bargain so made contrary to this Act shall be utterly void as against such Spiritual Person : Provided always, 15
That nothing hereinbefore contained shall subject to any penalty or forfeiture any Spiritual Person for keeping a School or Seminary, or acting as a Schoolmaster or Tutor or Instructor, or being in any 20
manner concerned or engaged in giving instruction or education for profit or reward, or for buying or selling or doing any other thing in relation to the management of any such School, Seminary or employment, or to any Spiritual Person whatever for the buying of any goods, wares or merchandises, or articles of any description, 25
which shall without fraud be bought with intent, at the buying thereof, to be used by the Spiritual Person buying the same for his family or in his household, and after the buying of any such goods, wares or merchandises or articles, selling the same again, or any parts thereof which such person may not want or choose to keep, 30
although the same shall be sold at an advanced price beyond that which may have been given for the same ; or for any buying or selling again, for gain or profit, of any cattle or corn or other articles necessary or convenient to be bought, sold, kept or maintained by any Spiritual Person, or any other person for him or to his use, for 35
the occupation, manuring, improving, pasturage or profit of any glebe, demesne lands or hereditaments which may be lawfully held and occupied, possessed or enjoyed by such Spiritual Person, or any other for him, or to his use : Provided always, That nothing herein contained shall authorize any such Spiritual Person to sell any 40
cattle or corn, or other articles as aforesaid, in person, in any market, fair or place of public sale.

23.
Penalties
for non-
residence,

And be it Enacted, That every Spiritual Person holding any Benefice shall keep residence on his Benefice, and in the house of residence.

residence (if any) belonging thereto; and if any such person shall, without any such license or exemption as is in this Act allowed for that purpose, or unless he shall be resident at some other Benefice of which he may be possessed, absent himself from such Benefice or from such house of residence, if any, for any period exceeding the space of Three Months together, or to be accounted at several times in any one year, he shall, when such absence shall exceed Three Months and not exceed Six Months, forfeit *One-third* part of the annual value of the Benefice from which he shall so absent himself; and when such absence shall exceed Six Months and not exceed Eight Months, *One-half* part of such annual value; and when such absence shall exceed Eight Months, *Two-third* parts of such annual value; and when such absence shall have been for the whole of the year, *Three-fourth* parts of such annual value.

without
License or
Exemption,
and not resid-
ing at another
Benefice.

And be it Enacted, That every Spiritual Person holding any Benefice, and every Curate or other Spiritual Person licensed or appointed to officiate in any Church or Chapel belonging to any Benefice, who shall, except in case of sickness or other cause allowed by the Bishop, omit to perform the Service of such Church or Chapel on any Sunday, or on Christmas-day or Good Friday, not having provided for the performance of such service by a fit and competent person in holy orders, shall forfeit for every such neglect or omission the sum of *Five Pounds*; and that any person who shall officiate in any Church or Chapel, not being the Incumbent or licensed Curate of the same, shall write down in a book, to be provided by the Churchwardens for that purpose, his name, the place of his residence, and the name of the Bishop by whom he was ordained.

24.
Penalty for
neglecting
duty on
Sundays, &c.

Five Pounds
for every
offence.

And be it Enacted, That it shall be lawful for any Bishop, upon application in writing by any Spiritual Person holding any Benefice within his Diocese whereupon there shall be no fit house of residence, by license under his hand and seal, to be registered in the Registry of the Diocese, which the Registrar is hereby required to do, to permit such person to reside in some other fit and convenient house to be particularly described and specified in such license, and for a certain time to be therein also specified, not exceeding the period by this Act limited, and from time to time as such Bishop may think fit to renew such license; and every such house shall be a legal house of residence for such specified time to all intents and purposes: Provided always, That no such license shall be granted to such Spiritual Person to reside in any house, unless it be within *Two Miles* of the Church or Chapel of such Benefice, nor in case such Church or Chapel be in any city, or market or borough town, unless such house be within *One Mile* of such Church or Chapel.

25.
License to
reside out of
the usual
House, if
unfit.

26.
Houses purchased by
Governors of
Queen Anne's
Bounty to be
deemed
residences.

AND whereas the Governors of the Bounty of Queen ANNE have purchased, built or procured, by way of benefaction or donation, and may hereafter purchase, build or procure, as aforesaid, houses not situate within the parishes or places wherein such Benefices lie, but so near thereto as to be sufficiently convenient and suitable for the residence of the officiating Ministers thereof; BE it therefore Enacted, That such houses, having been previously approved by the Bishop of the Diocese by writing under his hand and seal, duly registered in the Registry of the Diocese, shall be deemed houses of residence appertaining to such Benefices to all intents and purposes whatsoever. 5 10

27.
Vicar or Perpetual Curate
endowed
may reside in
Rectory.

And be it Enacted, That in all cases of Rectories having Vicarages endowed, or Perpetual Curacies, the residence of the Vicar or Perpetual Curate in the rectory house of such Benefice shall be deemed a legal residence to all intents and purposes whatever; provided that the house belonging to the Vicarage or Perpetual Curacy be kept in proper repair, to the satisfaction of the Bishop of the Diocese. 15

28.
Certain persons exempt
from penalties
for non-residence.

And be it Enacted, That no Spiritual Person being Dean of any Cathedral or Collegiate Church, or being Head Ruler of any College or Hall within either of the Universities of Oxford or Cambridge, or being Warden of the University of Durham, or being Head Master of Eton, Winchester or Westminster School, or Principal of the East India College, and not having respectively more than *One* Benefice with Cure of Souls, shall be liable to any of the Penalties or Forfeitures in this Act contained, for or on account of non-residence on any Benefice. 20 25

29.
Privileges for
temporary
non-residence.

And be it Enacted, That no Spiritual Person having or holding any professorship or any public readership in either of the said Universities, while actually resident within the precincts of the University, and while reading lectures therein, during the time required by the conditions of his office (provided always, that a certificate under the hand of the Vice Chancellor or Warden of the University, stating the fact of such residence, and of the due performance of such duties, shall in every such case be transmitted to the Bishop of the Diocese within *Six Weeks* after the *Thirty-first* day of *December* in each year); and no Spiritual Person serving as Chaplain of the King's or Queen's most Excellent Majesty, or of any of the King's or Queen's Children, Brethren or Sisters, during so long as he shall actually attend in the discharge of his duty as such Chaplain in the Household to which he shall belong; and no Chaplain of any Archbishop or Bishop, whilst actually attending in the discharge of his duty as such Chaplain; and no Spiritual Person actually serving as Chaplain of the House of 30 35 40 of

of Commons, or as Clerk of His Majesty's Closet, or as a Deputy Clerk thereof, while any such person shall be actually attending and performing the functions of his office; and no Spiritual Person serving as Chancellor or Vicar General, or Commissary of any Diocese, whilst exercising the duties of his office; or as Archdeacon, while upon his Visitation, or otherwise engaged in the exercise of his Archidiaconal functions; or as Dean or Subdean, or Priest or Reader in any of His Majesty's Royal Chapels at Saint James's or Whitehall, or as Reader in His Majesty's Private Chapels at Windsor or elsewhere, whilst actually performing the duty of any such office respectively; and no Spiritual Person, being Provost of Eton College, or Warden of Winchester College, or Master of the Charter House, during the time for which he may be required to reside and shall actually reside therein respectively, shall be liable to any of the Penalties or Forfeitures in this Act contained for or on account of non-residence on any Benefice for the time during which he shall be so as aforesaid resident, engaged, or performing duties, as the case may be; but every such Spiritual Person shall, with respect to residence on a Benefice under this Act, be entitled to account the time during which he shall be so as aforesaid resident, engaged, or performing duties, as the case may be, as if he had legally resided during the same time on some other Benefice; any thing in this Act contained to the contrary notwithstanding.

And be it Enacted, That it shall be lawful for any Spiritual Person, being Prebendary, Canon, Priest Vicar, Vicar Choral or Minor Canon in any Cathedral or Collegiate Church, or being a Fellow of one of the said Colleges of Eton or Winchester, and who shall reside and perform the duties of such office during the period for which he shall be required to reside and perform such duties by the Charter or Statutes of such Cathedral or Collegiate Church or College, as the case may be, to account such residence as if he had resided on some Benefice: Provided always, That nothing herein contained shall be construed to permit or allow any such Prebendary, Canon, Priest, Vicar, Vicar Choral, Minor Canon or Fellow, to be absent from any Benefice on account of such residence and performance of duty for more than *Five Months* altogether in any one year, including the time of such residence on his Prebend, Canonry, Vicarage or Fellowship: Provided also, That it shall be lawful for any Spiritual Person having or holding any such office in any Cathedral or Collegiate Church or College, in which the year for the purposes of residence is accounted to commence at any other period than the *First of January*, and who may keep the periods of residence required for *Two* successive years at such Cathedral or Collegiate Church or College, in whole or in part, between the *First of January* and the *Thirty-first of December* in any one year, to

30.
Dignitaries,
&c. residing
at Cathedral
Churches for
certain periods
exempted.

Provision for
cases in which
the year of
residence at
Cathedrals
commences at
any other
period than
the *First of*
January.

account such residence, although exceeding *Five Months* in the year, as reckoned from the *First of January* to the *Thirty-first of December*, as if he had resided on some Benefice; any thing in this Act contained to the contrary notwithstanding.

31.
Rights of
present In-
cumbents, as
to Exemp-
tions and
Licenses, pre-
served.

Provided always, That every Spiritual Person who was in pos- 5
session of any Benefice on the *Twelfth day of March One thou-
sand eight hundred and Thirty-six*, and entitled by the Law then
in force to exemption from residence, or to apply for a license for
non-residence, shall, as to every such Benefice, but not as to any 10
after-taken Benefice, be entitled to the same exemption from resi-
dence, and to the same capacity of applying for and obtaining a
license for non-residence, to which he was entitled on the said
Twelfth day of March One thousand eight hundred and Thirty-six;
and every Bishop and other person empowered before, the *passing*
of this Act to grant such license to such Spiritual Person shall 15
have the like power after the passing thereof, any thing hereinbefore
contained to the contrary notwithstanding.

32.
Exemption
forfeited, if
House of Re-
sidence not
kept in repair.

Provided also, and be it Enacted, That every Spiritual Person
having any house of residence upon his Benefice, who shall not
reside therein, shall during such period or periods of non-residence, 20
whether the same shall be for the whole or part of any year, keep
such house of residence in good and sufficient repair; and that
every such Spiritual Person who shall not keep such house of
residence in repair, and who shall not, upon monition issued by the
Bishop of the Diocese, put the same in repair, according to the 25
requisition of such monition, within the time specified therein, to the
satisfaction of such Bishop, founded upon such survey and report as
shall be required by the Bishop in that behalf, shall be liable to all the
penalties for non-residence imposed by this Act, notwithstanding any
exemption or license during the period of such house of residence 30
remaining out of repair, and until the same shall have been put in
repair to the satisfaction of the Bishop.

33.
Every Peti-
tion for
License for
non-resi-
dence to be in
writing, and
to state cer-
tain particu-
lars.

And be it Enacted, That wherever any Spiritual Person holding
any Benefice shall be desirous of obtaining a license for non-resi- 35
dence, he shall, by himself or by some person approved by the
Bishop in that behalf, present to the Bishop a petition signed by
himself or by such approved person, and shall state therein whether
such Spiritual Person intends to perform the duty himself, and
where and at what distance from the Church or Chapel of such
Benefice he intends to reside; and if he intends to employ a Curate, 40
such petition shall state what salary he proposes to give to such
Curate, and whether the Curate proposes to reside or not to reside in
the parish in which such Benefice is situate; and if the Curate intends

to

to reside therein, then whether in the house of residence belonging to such Benefice, or in some and what other house; and if he does not intend to reside in the parish, then such petition shall state at what distance therefrom, and at what place, such Curate intends to reside, and whether such Curate serves any other and what parish as Incumbent or Curate, or has any and what Ecclesiastical Preferment, or officiates in any other and what Church or Chapel; and such petition shall also state the annual value and the population of the Benefice in respect of which any license for non-residence shall be applied for, and the number of Churches or Chapels, if more than one, upon such Benefice; and it shall not be lawful for the Bishop to grant any such license, unless such petition shall contain a statement of the several particulars aforesaid; and every such petition shall be filed by the Bishop of the Diocese, and shall not be open to public inspection, or disclosed, or copies thereof made, except with the leave in writing of the Bishop.

And be it Enacted, That it shall be lawful for the Bishop, upon such petition being presented to him, and upon such proofs being adduced as to any facts stated in any such petition as he may think necessary and shall require, to grant, in such cases as are hereinafter enumerated, in which he shall in his discretion think fit to grant the same, a license in writing under his hand for such Spiritual Person to reside out of the proper house of residence of his Benefice, or out of the limits of his Benefice, for the purpose of exempting such person from any pecuniary penalty in respect of any non-residence thereon; which license shall express the house or place in which the Spiritual Person to whom it is granted shall reside, for the purpose of such exemption, and the cause of granting the same license; (that is to say) to any Spiritual Person who shall be prevented from residing in the proper house of residence or within the limits of such Benefice by any incapacity of mind or body, or by the actual illness of his wife or child, making part of and residing with him as part of his family; and also to any Spiritual Person having or holding any Benefice wherein there shall be no house of residence, or where the house of residence shall be unfit for the residence of such Spiritual Person, such unfitness not being occasioned by any negligence, default or other misconduct of such Spiritual Person, and such Spiritual Person keeping such house of residence, if any, and the buildings belonging thereto, in good and sufficient repair and condition, to the satisfaction of the Bishop, and a certificate under the hand of *Two* neighbouring Incumbents, countersigned by the Rural Dean, if any, that no convenient house can be obtained within the parish, or within the limits prescribed by this Act, being first produced to the Bishop; and also to any Spiritual Person holding any Benefice, and occupying in the same parish any mansion or

34.
Bishop may
grant Licenses
in certain
cases enu-
merated.

Appeal to
Archbishop in
case of refusal.

messuage whereof he shall be the owner, to reside in such mansion or messuage, such Spiritual Person keeping the house of residence, and other buildings belonging thereto, in good and sufficient repair and condition, and producing to the Bishop proof to his satisfaction, at the time of granting and renewing every such license, 5
of such good and sufficient repair and condition; Provided always, That if any Spiritual Person applying to any Bishop for a license of non-residence for or on account of any or either of the reasons before enumerated shall think himself aggrieved by the refusal thereof, it shall be lawful for such Spiritual Person, within *One Month* after 10
refusal, to appeal to the Archbishop of the Province, who shall forthwith, either by himself or by some Commissioner or Commissioners appointed under his hand from among the other Bishops of his Province, make or cause to be made inquiry into the same, and by writing signed by himself confirm such refusal, or direct the Bishop 15
to grant a license under this Act, as shall seem to the said Archbishop just and proper.

35.
Under special
circumstances,
Bishops may grant
Licenses to
reside out
of the House
or Benefice.

Reasons for
granting them
to be trans-
mitted to the
Archbishop
for examina-
tion and
allowance,
who may,
after inquiry,
annul, or in
any manner
vary License.

And be it Enacted, That it shall be lawful for the Bishop, in any case not hereinbefore enumerated, in which such Bishop shall think it expedient, to grant to any Spiritual Person holding any Benefice 20
within his Diocese a license to reside out of the proper house of residence, or out of the limits of such Benefice, as the case may be: Provided always, That in every such case the nature and special circumstances thereof, and the reasons that have induced such Bishop to grant such license, shall be forthwith transmitted to the 25
Archbishop of the Province, who shall forthwith, by himself or by some Commissioner or Commissioners appointed for that purpose under his hand from among the Bishops of the Province, examine into such case, and make such inquiries as to any particulars relating thereto as such Archbishop or Commissioner or Commissioners 30
may think necessary; and after such inquiries made by himself, or, where the same shall be made by such Commissioner or Commissioners, after a report thereupon made in writing to such Archbishop, such Archbishop shall allow or disallow such license in the whole or in part, or make any alteration therein as to the period 35
for which the same may have been granted or otherwise; and no such license shall be valid unless it shall have been so allowed by such Archbishop, such allowance thereof being signified by the signing thereof by such Archbishop: Provided always, That it shall not be necessary in such license to specify the cause of granting the 40
same.

36.
By whom
Licenses may
be granted
while a See is
vacant, or the
Bishop
absent, &c.

And be it Enacted, That during the vacancy of any See the power of granting licenses of non-residence under this Act, subject to the regulations therein contained, shall be exercised by the Guardian of the

the Spiritualities of the Diocese; or in case the Bishop of any Diocese shall be disabled from exercising in person the functions of his office, such power shall be exercised by the person or persons lawfully empowered to exercise his general jurisdiction in the Diocese: Provided
 5 always, That no license granted by any other than the Bishop shall be valid until the Archbishop of the Province shall have signified his approbation of the grant of such license by signing the same.

And be it Enacted, That no license for non-residence granted under this Act or under the Act hereby repealed shall continue in force
 10 after the *Thirty-first* day of *December*, in the second year after the year in which such license hath been or shall be granted.

37.
Limiting the
time of
Licenses.

And be it Enacted, That the person obtaining any license of non-residence shall pay for the same to the Secretary or Officer of the Bishop, or other person granting the same, the sum of *Ten* Shillings
 15 over and above the Stamp Duty chargeable thereon, and no more, and also the sum of *Three* Shillings, and no more, to the Registrar of the Diocese, and shall also pay the sum of *Five* Shillings to the Secretary of the Archbishop when any such license shall have been signed by such Archbishop.

38.
Fee for
Licenses.

And be it Enacted, That no license of non-residence granted under this Act shall become void by the death or removal of the Bishop granting the same, but the same shall be and remain valid, notwithstanding any such death or removal, unless the same shall be revoked
 20 as hereinafter mentioned.

39.
Licenses not
to be void by
the death or
removal of the
Grantor.

And be it Enacted, That it shall be lawful for any Archbishop or Bishop who shall have granted any license of non-residence as aforesaid, or for any successor of any such Archbishop or Bishop, after having given such Incumbent sufficient opportunity of showing reason to the contrary, in any case in which there may appear
 25 to such Archbishop or Bishop good cause for revoking the same, by an instrument in writing under his hand to revoke any such license: Provided always, That any such Incumbent may, within *One* Month after service on him of such revocation, appeal against the same by the Bishop, in like manner as hereby directed in case of
 30 the refusal of any such license.

40.
Licenses may
be revoked.

And be it Enacted, That every Bishop who shall grant or revoke any license of non-residence under this Act shall and he is hereby required, within *One* Month after the grant or revocation of such license, to cause a copy of every such license or revocation to
 40 be filed in the Registry of his Diocese; and an alphabetical list of such licenses and revocations shall be made out by the Registrar of such Diocese, and entered in a book, and kept for the inspection

41.
Copies of
Licenses or
Revocations
to be filed in
the Registry
of the Diocese,
and a list kept
for inspection;

and copies
transmitted to
Churchwardens,
and
publicly read
at the first
Visitation.

of all persons upon payment of *Three Shillings*, and no more; and a copy of every such license shall be transmitted by the Spiritual Person to whom such license shall have been granted to the Churchwardens or Chapelwardens of the parish or place to which the same relates, within *One Month* after the grant of such license; 5
and every Bishop revoking any such license shall cause a copy of such revocation to be transmitted within *One Month*, after the revocation thereof, to the Churchwardens or Chapelwardens of the parish or place to which it relates; which copies of licenses and revocation shall be by them deposited in the Parish Chest, and shall likewise be 10
produced by them, and publicly read by the Registrar or other Officer at the visitation of the Ecclesiastical District within which such Benefice shall be locally situate next succeeding the receipt thereof; and every Spiritual Person who shall neglect to transmit a copy of 15
such license, as hereby required, to such Churchwardens or Chapelwardens, as the case may be, shall lose all benefit thereof; and every Registrar who shall neglect to enter any such license or revocation, shall forfeit for every such neglect the sum of *Five Pounds*: Provided always, That in case the Archbishop of the Province shall on appeal to 20
him annul the revocation of any such license, the Bishop by whom such revocation shall have been made shall, immediately on receiving notice from the Archbishop that he has annulled the same, order by writing under his hand that the copies of such revocation shall be forthwith withdrawn from the said Registry and Parish Chest, and 25
that the same shall not be produced and read at the visitation, and that such revocation shall be erased from the List of Revocations in the said Registry; which Order shall be binding on the Registrar and Churchwardens respectively to whom the same shall be addressed.

42.
A list of
Licenses
allowed by
the Archbishop,
or
granted in his
own Diocese,
shall be annually
transmitted to His
Majesty in
Council, who
may revoke
Licenses, &c.

And be it Enacted, That every Archbishop who shall in his own Diocese grant any license of non-residence, or who shall approve and 30
allow, in manner directed by this Act, any such license in any case not enumerated in this Act, shall annually, in the month of *January* in each year, transmit to His Majesty in Council a list of all licenses so granted or allowed by such Archbishop respectively in the year 35
ending on the *last day of December* preceding such month of *January*, and shall in every such list specify the reasons which have induced him to grant or allow each such license, together with the reasons transmitted to him by the Bishops for granting each such license in their respective Dioceses; and it shall be lawful for His Majesty in 40
Council, by an Order made for that purpose, to revoke and annul any such license; and if His Majesty in Council shall think fit so to do, such Order shall be transmitted to the Archbishop who shall have granted or approved and allowed such license, who shall thereupon cause a copy of every such Order to be transmitted to the Bishop of the Diocese in which such license shall have been 45
granted;

granted; and such Bishop shall cause a copy of the mandatory part of the Order to be filed in the Registry of such Diocese, and a like copy to be delivered to the Churchwardens or Chapelwardens of the parish or place to which the same relates, in manner hereinbefore directed as to revocation of licenses; and every such Archbishop shall cause a copy of the mandatory part of every such Order made in relation to any such license granted by him in his own Diocese to be in like manner filed in the Registry of his Diocese, and a like copy also to be delivered to the Churchwardens or Chapelwardens of the parish or place to which such license shall relate, in manner before mentioned: Provided always, That after such license shall have been so revoked by His Majesty in Council, the same shall nevertheless, in all questions that shall have arisen or may thereafter arise touching the non-residence of the Spiritual Person to whom the same shall have been granted, between the time at which the same was granted or approved and allowed, and the time of its being so revoked, be deemed and taken to have been valid.

License, although revoked, shall be deemed valid between the Grant and Revocation.

And be it Enacted, That it shall be lawful for each Bishop, and he is hereby required to transmit, some time in the month of *January* in each year, to every Spiritual Person holding any Benefice within his Diocese or Jurisdiction, the questions contained in the Schedule to this Act, together with such other questions as may from time to time be settled and directed by His Majesty in Council for the purpose of better enabling the several Bishops to make the returns hereafter mentioned; and every Spiritual Person to whom such questions shall be so transmitted shall and he is hereby required, within *Three Weeks* from the day on which the same shall be delivered to him, or to the officiating Minister of the Benefice for the time being, to make and transmit to the Bishop full and specific answers thereto, such answers being countersigned by the Rural Dean, if any, of the Deanery or District in which the Benefice is situate; and every Spiritual Person neglecting to make and transmit such full and specific answers within such time as aforesaid shall forfeit for every such offence the sum of *Ten Pounds*.

43.
Incumbents to answer Queries transmitted to them by Bishop.

And be it Enacted, That on or before the *Twenty-fifth* day of *March* in every year, a Return shall be made to His Majesty in Council, by every Bishop, of the name of every Benefice within his Diocese or Jurisdiction, and the names of the several Spiritual Persons holding the same respectively who shall have resided thereon, and also the names of the several Spiritual Persons who, by reason of any exemption under or by virtue of this Act, or by reason of any license granted by such Bishop, shall not have resided on their respective Benefices, and also the names of all Spiritual Persons not having any such exemption or license who shall not have

44.
On or before Twenty-fifth March annually, a Return shall be made to His Majesty in Council of every Benefice, with names of residents and non-residents, &c.

resided on their respective Benefices, so far as the Bishop is informed thereof, and also the substance of the answers received in all cases to the questions so transmitted as aforesaid.

45.
If any person, neither licensed nor exempt, does not sufficiently reside, the Bishop may issue a Monition.

Returns to be made to Monitions, which may be required to be upon oath.

Where Return shall not be made, or shall not be satisfactory, Bishop may order residence; and if disobeyed, may sequester the profits of the Benefice, and direct an application of the profits.

And be it Enacted, That in every case in which it shall appear to the Bishop that any Spiritual Person holding any Benefice within his Diocese, and not having a license to reside elsewhere than in the house of residence belonging thereto, nor having any legal cause of exemption from residence, does not sufficiently, according to the true meaning and intent of this Act, reside on such Benefice, it shall be lawful for such Bishop, instead of proceeding for penalties under this or the said hereinbefore recited Act, or after proceeding for the same, to issue or cause to be issued a Monition to such Spiritual Person, requiring him forthwith to proceed and to reside on such Benefice, and perform the duties thereof, and to make a Return to such monition within a certain number of days after the issuing thereof; provided that in every such case there shall be *Thirty Days* between the time of serving such monition on such Spiritual Person, in the manner hereinafter directed, and the time specified in such monition for the Return thereto; and the Spiritual Person on whom any such monition shall be served shall, within the time specified for that purpose, make a Return thereto into the Registry of the Diocese, to be there filed; and it shall be lawful for the Bishop to whom any such Return shall be made to require such Return or any fact contained therein to be verified by evidence; and in every case where no such Return shall be made, or where such Return shall not state such reasons for the non-residence of such Spiritual Person as shall be deemed satisfactory by the Bishop, or where such Return, or any of the facts contained therein, shall not be so verified as aforesaid when such verification shall have been required, it shall be lawful for the Bishop to issue an Order in writing under his hand and seal, requiring such Spiritual Person to proceed and reside as aforesaid within *Thirty Days* after such Order shall have been served upon him, in like manner as is hereinafter directed with respect to the service of monitions; and in case of non-compliance with such Order, it shall be lawful for the Bishop to sequester the profits of such Benefice until such Order shall be complied with, or such sufficient reasons for non-compliance therewith shall be stated and proved as aforesaid, and to direct, by any Order to be made for that purpose under his hand, and filed as aforesaid, the application of such profits, after deducting the necessary expenses of serving the Cure, either in the whole or in such proportion as he shall think fit, in the first place to the payment of such reasonable expenses as shall have been incurred in relation to such monition and sequestration, and in the next place towards the augmentation or improvement of any such Benefice, or the house of residence thereof, or any of the buildings and appurtenances thereof,

or

or towards the improvement of any of the glebe or demesne lands thereof, or to order and direct the same, or any portion thereof, to be paid to the Treasurer of the Governors of the Bounty of Queen ANNE, for the purposes of the said bounty, as such Bishop shall in his discretion under all circumstances think fit and expedient; and it shall also be lawful for the Bishop, within Six Months after such Order for sequestration, or within Six Months after any money shall have been actually levied by such sequestration, to remit to such Spiritual Person any proportion of such sequestered profits, or to cause the same, or any part thereof, whether the same remain in the hands of the Sequestrator or shall have been paid to the said Treasurer, to be paid to such Spiritual Person; or in any case where such Benefice shall be likewise under sequestration at the suit of a Creditor or of the said Governors, then to be paid to the Sequestrator for the benefit of such Creditors or of the said Governors; and every such Sequestrator, at the suit of the Bishop, is hereby required, upon receiving an Order under the hand of such Bishop, forthwith to obey the same; and the said Treasurer is hereby authorized and required, upon receiving a like Order from such Bishop, to make such payment out of any money in his hands: Provided always, That when any such Spiritual Person shall think himself aggrieved by reason of any such sequestration issued by the Bishop, it shall be lawful for such Spiritual Person, within One Month after the Order for any such sequestration shall have been made, to appeal to the Archbishop of the Province, who shall forthwith, either by himself or by some Commissioner or Commissioners appointed under his hand from among the Bishops of his Province, make or cause to be made due inquiry into the same, and make such Order relating thereto, or to the profits that shall have been so sequestered as aforesaid, for the return of the same or any part thereof to such Spiritual Person, or to such Sequestrator at the suit of a Creditor (as the case may be), or otherwise, as may appear to such Archbishop (after such inquiry made by himself or by his Commissioner or Commissioners, and in the latter case after a report thereupon shall have been made in writing to the said Archbishop) to be just and proper.

Appeal
against Se-
questration
may be made
to the Arch-
bishop...

And be it Enacted, That every Spiritual Person to whom any such Monition or Order in writing shall be issued as aforesaid, who shall be at the time of the issuing thereof absent from residence in or upon his Benefice, contrary to the provisions of this Act, but who shall in obedience to such Monition or Order forthwith return to due residence, and the profits of whose Benefice shall by reason of such return not be sequestered, shall nevertheless pay all costs, charges and expenses incurred by reason of the issuing and serving such Monition or Order, and that the proceedings thereon shall not be stayed until such payment shall be made.

46.
Persons who
shall return
to Residence
on Monition
shall pay the
Costs.

47.
If any person returning to Residence on Monition shall, before Twelve Months thereafter, absent himself, the Bishop may without Monition sequester the profits of the Benefice.

AND for effectually enforcing bonâ fide residence according to the intent of such Monition and Order; BE it further Enacted, That if any Spiritual Person not having a license to reside out of the limits of his Benefice, nor having other lawful cause of absence from the same, who, after any such Monition or Order as aforesaid requiring him to reside, and before or after any such sequestration as aforesaid, shall in obedience to any such Monition or Order have begun to reside upon his Benefice, shall afterwards, and before the expiration of Twelve Months next after the commencement of such residence, wilfully absent himself from such Benefice for the space of One Month together, or to be accounted at several times, it shall be lawful for the Bishop, without issuing any other Monition or making any Order, to sequester and apply the profits of such Benefice as before directed by this Act, for the purpose of enforcing the residence of such Spiritual Person, according to the true intent of the original Monition issued by the Bishop as aforesaid; and it shall be lawful for the Bishop so to proceed in like cases from time to time as often as occasion may require; provided, that in each such case such Spiritual Person shall be entitled to appeal against such sequestration, in such manner and within such period as hereby directed touching appeals respecting sequestration, but nevertheless such sequestration shall be in force during such appeal.

48.
Penalties beyond a certain amount for the recovery of which Monition has been issued, may be remitted by the Bishop, special returns being made of the reasons for such remission.

And be it Enacted, That in every case in which any Archbishop or Bishop shall think proper, after proceeding by Monition for the recovery of any penalty under this Act of more than One-third part of the value of any Benefice for any non-residence exceeding Six Months in the year, to remit the whole or any part of any such penalty, such Archbishop shall forthwith transmit to His Majesty in Council, and such Bishop shall transmit to the Archbishop of the Province to which he belongs, a list of such cases as have occurred in his Diocese, specifying the nature and special circumstances of each case, and the reasons for the remission, in the same manner as is directed in relation to the licenses for non-residence granted in non-enumerated cases; and it shall thereupon be lawful for His Majesty in Council, or for the Archbishop, as the case may be, to allow or disallow such remission in whole or in part, in the same manner as is provided in this Act with relation to the allowance or disallowance of such licenses of non-residence: Provided always, That the decision of the Archbishop, with respect to cases transmitted to him from a Bishop, shall be final.

49.
If any Benefice shall continue under such a Sequestration One Year, or

And be it Enacted, That if the Benefice of any Spiritual Person shall continue for the space of One whole Year under sequestration issued under the provisions of this Act for disobedience to the Bishop's Monition requiring such Spiritual Person to reside on his Benefice, or

if

if such Spiritual Person shall under the provisions of this Act incur *Two* such sequestrations in the space of *Two* Years, and shall not be relieved with respect to either of such sequestrations upon appeal, such Benefice shall become ipso facto void; and the Bishop shall thereupon give notice in writing under his hand to the Patron of such Benefice, which notice shall either be delivered to such Patron or left at his usual or last place of abode; or if such Patron or place of abode shall be unknown, or shall be out of England, such notice shall be *Twice* inserted in the London Gazette, and also *Twice* in some Newspaper printed and usually circulated in the neighbourhood of the place where such Benefice is situate, and the avoidance of the Benefice shall be reckoned from the day on which such notice shall have been delivered as aforesaid, or from the day of the *Second* publication of such notice in the London Gazette, as the case may be; and the Clerk whom the Patron shall present or nominate to such Benefice so avoided shall not be the person by whose non-residence the same was so avoided.

incur *Two* such Sequestrations within *Two* Years, it shall become void; except in cases of relief upon Appeal.

And be it Enacted, That all agreements made for the letting of the house of residence, or the buildings, gardens, orchards or appurtenances necessary for the convenient occupation of the same, belonging to any Benefice, to which house of residence any Spiritual Person shall be required by Order of the Bishop as aforesaid to proceed and to reside therein, or which shall be assigned or appointed as a residence to any Curate by the Bishop, shall, upon a copy of such Order, assignment or appointment being served upon the Occupier thereof, or left at the house, be null and void; and a copy of every such Order, assignment or appointment shall immediately on the issuing thereof be transmitted to one of the Churchwardens of the parish, or such other person as the Bishop shall think fit, and be by him forthwith served on the Occupier of such house of residence, or left at the same; and any person continuing to hold any such house of residence, or any such building, garden, orchard or appurtenances, after the day on which such Spiritual Person shall be directed by such Order to reside in such house of residence, or which shall be specified in any such Order, assignment or appointment, and after such copy shall be so served or left as aforesaid, shall forfeit the sum of *Forty* Shillings for every day he shall, without the permission of the Bishop in writing for that purpose obtained, wilfully continue to hold any such house, building, garden, orchard or appurtenances, together with the expense of serving or leaving such Order, assignment or appointment, to be allowed by the Bishop issuing the Order or making such assignment or appointment; and it shall also be lawful for the Spiritual Person so directed to reside, or the Curate to whom any such residence is assigned, to apply to any Justice of the Peace having jurisdiction in the place for a Warrant for the taking possession thereof; and the Justice to whom

50.
Contracts for letting Houses in which any Spiritual Persons shall by order of the Bishop be required to reside, shall be void.

Any person holding possession after the day appointed, shall be subject to Penalty.

any such Order for such possession is produced shall and he is hereby required, upon its being duly verified, to grant a Warrant to some Peace Officer to deliver such possession, and possession may thereupon be taken of such house under such warrant at any time in the day-time by entering the same by force, if necessary, without any other proceeding by ejectment or otherwise; any law or statute to the contrary notwithstanding. 5.

51.
Incumbent
not liable to
Penalty while
the Tenant
shall continue
to occupy.

Provided always, and be it Enacted, That no Spiritual Person shall be liable to any penalty for not residing in any such house of residence during such time as such Tenant shall continue to occupy such house of residence or other building necessary to the occupation of the same. 10

52.
No Oath
relating to
Residence
shall be re-
quired of any
Vicar.

And be it Enacted, That no oath shall be required of or taken by any Vicar in relation to residence on his Vicarage; any law, custom, constitution or usage to the contrary notwithstanding. 15

53.
Non-resident
Incumbents
neglecting to
appoint Cu-
rates, Bishop
to appoint.

And be it Enacted, That if any Spiritual Person holding any Benefice, who shall not actually reside thereon *Nine Months* in each year, (unless such person shall perform the ecclesiastical duties of the same, having a license to reside out of the same, or to reside out of the usual house of residence belonging to the same,) shall for a period exceeding *Two Months* altogether in the course of any *One Year* absent himself from his Benefice without leaving a Curate or Curates duly licensed or approved by the Bishop to perform such ecclesiastical duties, or shall, for the period of *One Month* after the death, resignation or removal of any Curate who shall have served his Church or Chapel, neglect to notify such death, resignation or removal to the Bishop, or to nominate to the Bishop a proper Curate; in every such case, and in every case in which, although such notice may have been given, no Curate shall be nominated to the Bishop for the purpose of being licensed by him within the period of *Two Months* after such death, resignation or removal, the Bishop is hereby authorized to appoint and license a proper Curate, with such salary as is by this Act allowed and directed, to serve the Church or Chapel of the Benefice in respect of which such neglect or default shall have occurred: Provided always, That such license shall in every case specify whether the Curate is required to reside within the parish or place or not; and if the Curate is permitted by the Bishop to reside out of the parish or place, the grounds upon which the Curate is so permitted to reside out of the same shall be specified in such license, and the distance of the residence of any Curate from any such Church or Chapel which he shall be licensed to serve shall not exceed *Three* statute Miles, except in cases of necessity, to be approved by the Bishop and specified in the license. 20 25 30 35 40

And

And be it Enacted, That in every case where a Curate is appointed to serve in any Benefice upon which the Incumbent either does not reside, or has not satisfied the Bishop of his full purpose to reside, during *Four Months* in the year, such Curate shall be required by the Bishop to reside in the parsonage house or house of residence of such Benefice, or if there be no fit house of residence, then within the parish in which such Benefice is situate; or if no convenient residence can be procured within such parish, then within *Three statute Miles* of the Church or Chapel of the Benefice in which he shall be licensed to serve, except in cases of necessity, to be approved of by the Bishop and specified in the license, and such place of residence shall be specified in the license.

54.
Curate to reside on Benefices, under certain circumstances.

AND whereas, for further promoting the residence of the Clergy, it is expedient and desirable that the powers and provisions given and made by an Act passed in the seventeenth year of the reign of King GEORGE the Third, intituled, "An Act to promote the Residence of the Parochial Clergy by making Provision for the more speedy and effectual building, rebuilding, repairing or purchasing Houses and other necessary Buildings and Tenements for the use of their Benefices," as the same are explained and amended by an Act passed in the twenty-first year of the same reign, intituled, "An Act to explain and amend an Act made in the seventeenth year of the reign of his present Majesty, intituled, 'An Act to promote the Residence of the Parochial Clergy, by making Provision for the more speedy and effectual building and rebuilding, repairing or purchasing Houses and other necessary Buildings and Tenements for the use of their Benefices,'" should be extended; BE it therefore Enacted, That after the *passing of this Act* it shall be lawful for the Incumbent of any Benefice to borrow and take up at interest for the purposes of the two last hereinbefore recited Acts, and also for the purpose of buying or procuring, if necessary, a proper site for a house and other necessary buildings, any sum or sums of money not exceeding *Two Years'* net income of such Benefice where such income amounts to or exceeds *Four hundred Pounds* per annum, not exceeding *Two and a half Years'* income where such income amounts to or exceeds *Three hundred Pounds* per annum, but is below *Four hundred Pounds*, nor exceeding *Three Years'* income where such income is below *Three hundred Pounds*, and to take all such proceedings as are required in and by the said last-recited Acts (so far as the same are applicable for that purpose), and as a security for the money so to be borrowed, to mortgage the glebe, tithe, rent-charges, rents and other profits and emoluments belonging to such Benefice to such person or persons, corporation or corporations, aggregate or sole, as shall lend the same money, by one or more deed or deeds, for the term of *Thirty-five Years*, or until the money so to be borrowed, with interest for the same, and

55.
Extension of the Provisions of the Acts 17 G. 3, c. 53, and 21 G. 3, c. 66, relating to the repairing and rebuilding of Houses of Residence.

such costs and charges as may attend the recovery thereof, shall be fully paid and satisfied according to the terms and conditions of the said last-recited Acts (so far as the same are applicable and not hereby repealed or altered); and that from and after the expiration of the first year of the said term (in which year no part of the principal sum borrowed shall be repayable) the Incumbent shall yearly and every year (such year to be computed from the day of the date of the mortgage) pay to the mortgagee *One-thirtieth* part of the said principal sum, until the whole thereof shall be repaid, and shall at the end of the first and each succeeding year pay the yearly interest on the said principal sum, or on so much thereof as shall from time to time remain unpaid, in each case according to the terms and conditions of the said last-recited Acts, except so far as the same are hereby repealed or altered; and such mortgage deed or deeds shall be made as nearly as may be in the form or to the effect of the form contained in the Schedule to the last-recited Acts or one of them, and shall bind every succeeding Incumbent of such Benefice until the principal and interest, costs and charges shall be paid off and discharged, as fully and effectually as if such successor had made and executed the same.

56.
Power to
Bishops to
enforce such
extended
Provisions by
Monition, &c.

And be it Enacted, That where it shall appear to any Bishop that it is necessary, for effecting the good purposes of the last-recited Acts, that Money should be borrowed under the powers of the same Acts and of this Act, it shall be lawful for such Bishop, by writing under his hand, to require the Incumbent of any Benefice situate within his Diocese above the value of *One hundred and fifty* Pounds per annum, upon which there shall be no house of residence, or no house of residence in which such Incumbent shall be willing to reside, to borrow and take up at interest for the said purposes such sum or sums of money as such Incumbent is by the said last-recited Acts or by this Act authorized to raise, and to make and execute such mortgage for securing the same to the person or persons, corporation or corporations, lending the same, as hereinbefore mentioned; and in case such Incumbent shall refuse or neglect to comply with such requisition, it shall be lawful for such Bishop to issue or cause to be issued a Monition directing such Incumbent to borrow and take up at interest, and make and execute such mortgage for securing such sum or sums of money as aforesaid, for the purposes aforesaid; and in case such Incumbent shall refuse or neglect to comply with such Monition, it shall be lawful for such Bishop to enforce the same by sequestration of the profits of such Benefice; and the Sequestrator in every such case shall procure the same certificates, plans and estimates, and make the same accounts, as are required and directed to be made by the last-recited Acts or either of them, and borrow and take up at interest the same sums of money, and execute the same mortgage or mortgages, as the Incumbent is authorized

rized and may be hereby required to make; provided that it shall be lawful for the Bishop, by writing under his hand, if he shall think fit, to direct that any mortgage executed by a Sequestrator shall be for a shorter term of years than if it had been executed by the

5 Incumbent himself, and that the yearly instalment shall be of a greater amount than *One-thirtieth* part, but not exceeding *One-tenth* part of the principal money so to be borrowed, as the Bishop shall think fit; and every mortgage made and executed by every such Sequestrator shall bind every Incumbent of such Benefice for the

10 term of years thereby created or granted, and until the principal and interest, and all costs and charges, as well as of the Sequestrator as otherwise, incurred in respect thereto, shall be paid off and discharged, as fully and effectually as if such Incumbent had himself made and executed the same: Provided always, That none of the

15 covenants, clauses or agreements to be contained in any mortgage to be made by such Sequestrator shall be deemed to bind such Sequestrator personally, or his real or personal representatives, but shall bind the Incumbent for the time being of such Benefice, in the same manner as if he himself had made and executed such mortgage: Provided also, That if any Bishop shall see reason in any case for not exercising the power given to him by this enactment, he shall in every return by him made to His Majesty in Council, stating that there is no house of residence on such Benefice, give his reason for not exercising the same: Provided also, That it shall not be lawful

25 for the Bishop to require any Incumbent who is actually resident in the parish or place wherein his Benefice may be, but not resident in the glebe house, to borrow any such sum or sums of money: Provided also, That in every case in which the Bishop shall require such Incumbent to borrow and take up at interest any sum or sums of money for the purpose of enlarging the existing house of residence or of adding thereto, it shall be lawful for such Incumbent to

30 appeal to the Archbishop from any such Order of the Bishop, and the Archbishop, after inquiring into the circumstances of the case, shall certify to the Bishop and Incumbent whether the said Order so appealed against shall be of force or not.

35

And be it Enacted, That so much of the two last-recited Acts as requires the Incumbent of a Benefice mortgaged under the provision thereof, if non-resident, to pay *Ten Pounds per centum per annum* of the money originally advanced, and obliges an Incumbent paying

40 *Five Pounds per centum* to produce a certificate of residence, shall be, as to all mortgages to be made after the *passing of this Act*, and the same are hereby Repealed.

57.
Provisions of last-recited Acts which compel non-resident Incumbents to pay 10l. per cent. per annum of Sum borrowed, repealed as to future Mortgages.

And be it Enacted, That for the future, as to every mortgage which has been made to the Governors of the Bounty of Queen ANNE

58.
The yearly Instalments of Principal

Sums secured
by existing
Mortgages
reduced in
certain
cases.

for the augmentation of the maintenance of the poor Clergy, by any Bishop, under the powers of an Act of Parliament specially enabling him, whereby a greater yearly instalment than *One-thirtieth* part of the principal sum is stipulated to be paid, or by the Incumbent of a Benefice by virtue of the two last hereinbefore recited Acts, the instalment of the principal sum to be paid in every year to the said Governors or their assigns, by such Bishop or by the Incumbent (whether such Incumbent shall have been resident for the space of *Twenty* Weeks in the year for which such instalment shall be payable or not, and without the production of any certificate of such residence) shall be *One-thirtieth* part of the principal sum originally advanced on such mortgage, in lieu of the yearly instalment thereby stipulated to be paid, until the whole of the said principal sum shall be fully discharged and paid; such substituted yearly instalment to commence and be paid in each case on the day when the next yearly instalment by virtue of the said mortgage shall become due; and the mortgage made to the said Governors of the estates of any Bishoprick, or of the glebe, tithes, rents and other profits and emoluments of any Benefice, shall in every case be and remain in force as a security for the yearly instalments by this Act substituted for the yearly instalments of the principal by the said mortgage agreed to be paid, as well as for the payment of the interest arising on such mortgage, and with all the powers and remedies for enforcing the same given by the said respective Acts, until the money borrowed, and all interest for the same, and also all costs and charges which shall be occasioned by the non-payment thereof, shall be fully paid and discharged, in like manner as if such substituted yearly instalments had been expressly mentioned in and secured by the said mortgage, the expiration of the term of years granted by the said mortgage, or any other cause or matter whatsoever notwithstanding.

59.
Governors
of Queen
Anne's
Bounty may
advance 100*l.*
for Benefices
not exceeding
50*l.* a year,
without Interest;

and any Sums
for other Benefices at
Four per cent.

And be it further Enacted, That it shall be lawful for the said Governors to advance and lend any sum or sums of money, not exceeding the sum of *One hundred* Pounds, in respect of each Benefice, out of the money which has arisen or shall from time to time arise from that bounty, for promoting and assisting the several purposes of the said two last-recited Acts and of this Act with respect to any such Benefices as shall not exceed the clear annual improved value of *Fifty* Pounds; and such mortgage and security shall be made for the repayment of the principal sums so to be advanced as are hereinbefore mentioned, but no interest shall be paid for the same; and in cases where the annual value of such Benefice shall exceed the sum of *Fifty* Pounds, that it shall and may be lawful for the said Governors to advance and lend for the purposes of such Acts any sum or sums of money to the extent authorized by this Act to be borrowed upon such mortgage and security as aforesaid, and subject

subject to the several regulations of this Act, and to receive interest for the same not exceeding *Four Pounds for One hundred Pounds* by the year.

5 And be it Enacted, That all powers, authorities, provisions, forms and matters in the said two last-recited Acts contained shall, except as is herein otherwise directed, extend and be applicable, mutatis mutandis, to all Mortgages made as well under and for the purposes of this Act as of the said recited Acts, and as if the same had been respectively repeated and set forth herein.

60.

Certain powers of recited Acts extended to this Act.

10 And be it further Enacted, That it shall be lawful for any College or Hall within the Universities of Oxford and Cambridge, or for any other corporate bodies possessed of the patronage of Ecclesiastical Benefices, to advance and lend any sum or sums of money of which they have the power of disposing, in order to aid and assist the several purposes of this Act for the building, rebuilding, repairing or purchasing of any houses or buildings for the habitation or convenience of the Clergy upon Benefices under the patronage of such Colleges or Halls respectively, upon the mortgage and security directed by this Act for the repayment of the principal, without taking any interest for the same.

61.

Colleges, &c. may advance Money, Interest-free, to Benefices in their Patronage.

And be it Enacted, That when it shall happen that any existing house and offices belonging to any Benefice shall be unfit for the residence of the Incumbent thereof, and shall be incapable of being enlarged or repaired for that purpose, and it shall be so certified to the Bishop of the Diocese wherein such Benefice shall be situate by some competent surveyor or architect upon oath, and that it will be advantageous to the Benefice that such house and offices should be suffered to remain, it shall be lawful for such Incumbent, with the consent in writing of such Bishop (such consent to be registered in the Registry of such Bishop), to allow such house and offices to remain standing as a dwelling-house and offices, or to convert the same into farming buildings, for the use and occupation of the said occupier or occupiers of such glebe lands; and from and after the complete erection of a new house and offices under the powers and authorities of the said last recited Acts and of this Act, such old house and offices shall from thenceforth be used and converted to the purposes aforesaid, and such new house and offices shall from thenceforth to all intents and purposes be deemed and taken to be the residence house of and for such Benefice, without the necessity of obtaining any license or faculty for that purpose.

62.

Old Benefice Houses in certain Cases may be converted into Farming Houses for the Tenants of the Glebe, &c.

And be it Enacted, That upon the avoidance of any Benefice, the annual value whereof shall not exceed *Two hundred Pounds*, and

63.

Benefice not having fit House of

Residence
may, on
avoidance, be
sequestered
by Bishop,
till House
built or
repaired.

and on which there shall be no fit house of residence, it shall be lawful for the Bishop of the Diocese, and he is hereby required to sequester the profits of such Benefice, and, after providing for the due performance of the ecclesiastical duties thereof, to apply the remaining profits of such Benefice, and also the amount of dilapidations, if any, which shall be recovered from the late Incumbent thereof, or his representatives, which dilapidations the Sequestrator appointed by such Bishop is hereby authorized and required to sue for and recover, towards the providing of a fit house of residence for the Incumbent of such Benefice; provided that, notwithstanding such sequestration, it shall be lawful for the person or persons to whom the right of presentation to such Benefice shall belong to present or nominate to the Bishop, for institution or license thereto, such Spiritual Person, being duly qualified, as he or they shall think fit; but nevertheless it shall be lawful for such Bishop to withhold institution or license to such Benefice until a fit house of residence shall have been provided as aforesaid: Provided always, That if any Bishop shall see reason for not issuing such sequestration, or for withdrawing such sequestration if issued, before a sufficient house of residence shall have been so provided as aforesaid, he shall, in the next return hereinbefore directed to be made to His Majesty in Council, state his reasons for not issuing or for withdrawing such sequestration, as the case may be.

64.
If Duty be
inadequately
performed,
the Bishop
may appoint
Curate.

And be it Enacted, That whenever the Bishop shall see reason to believe that the ecclesiastical duties of a Benefice are inadequately performed, it shall be lawful for him to issue a Commission to *Four* beneficed Clergymen, one whereof shall be the Rural Dean, if any, of the Rural Deanery or District wherein such Benefice is situate, and the other *Three* (or the *Four*, if there be no Rural Dean,) Incumbents of Benefices within *Five* Miles of the Church or Chapel of such Benefice, directing them to inquire into the facts of the case; and if they or the *major* part of them report in writing under their hands to the said Bishop, that the duties of such Benefice are inadequately performed, or if there be more than one Church or Chapel belonging to such Benefice, it shall be lawful for such Bishop, in either of the said cases, by writing under his hand, to require the Spiritual Person holding such Benefice, though he may actually reside or be engaged in performing the duties thereof, to nominate to him a fit person or persons, with sufficient stipend or stipends, to be licensed by him to perform or to assist in performing such duties, specifying therein the grounds of such requisition; and if such Spiritual Person shall neglect or omit to make such nomination for the space of *Three* Months after such requisition so made as aforesaid, it shall be lawful for the Bishop to appoint a Curate or Curates, as the case shall appear to him to require, with such stipend

or

or stipends as he shall think fit to appoint, not exceeding the respective stipends allowed to Curates by this Act in the case of non-resident Incumbents, nor, except in the case of negligence, exceeding *One-half* of the net annual value of such Benefice; and such Bishop shall cause every such requisition, and every affidavit made to found the same, to be forthwith filed in the Registry of his Court: Provided always, That it shall be lawful for any such Spiritual Person, who shall think himself aggrieved by any such appointment of such Curate or Curates, to appeal to the Archbishop of the Province in the like manner as a Spiritual Person may appeal against a sequestration issued by a Bishop.

But Incumbent may appeal.

And be it Enacted, That whenever the annual value of a Benefice shall exceed *Four hundred* Pounds, and the population thereof shall amount to *Two thousand*, it shall be lawful for the Bishop to require the Spiritual Person holding such Benefice, although he shall be resident thereon or engaged in performing the duties thereof, to nominate a fit and proper person to be licensed as a Curate to assist in performing the duties of such Benefice, and to be paid by the person holding the same; and whenever the population of a Benefice shall amount to *Two thousand*, and it shall be made to appear to the satisfaction of the Bishop that a stipend can be provided for the payment of a Curate by voluntary contribution, or otherwise, without charge to the Incumbent, it shall be lawful for the Bishop to require the Spiritual Person holding the same to nominate a fit person to be licensed as such Curate, whatever may be the annual value of such Benefice; and if in either of the said cases a fit person shall not be nominated to the Bishop within *Two Months* after his requisition for that purpose shall have been delivered to the Incumbent, or left at his last or usual place of abode, it shall be lawful for the Bishop to appoint and license a Curate, with such stipend as he shall think fit to appoint, not exceeding the respective stipends allowed to Curates by this Act, nor in any case exceeding *One-fifth* part of the net annual value of the Benefice; and in case such stipend shall be derived in whole or in part from other sources than from payments to be made by the Incumbent, such license so granted shall not be of force to entitle such Curate to demand any payment from such Incumbent beyond the amount which such Incumbent shall have agreed in the nomination given by him to the Bishop to pay to such Curate.

65.
In large Benefices an Assistant Curate may be required.

And be it Enacted, That whenever the Incumbent of any Benefice shall be rendered incompetent to perform the duties thereof by reason of lunacy or unsoundness of mind, it shall be lawful for the Bishop of the Diocese in which such Benefice is situate to appoint and license a Curate to perform the ecclesiastical duties of such Benefice during such incapacity of the Incumbent

66.
Power to Bishop to appoint Curate when Incumbent lunatic.

thereof as aforesaid, and to assign to such Curate such stipend as he shall think fit, not exceeding the stipend allowed to Curates under this Act, together with the use of the house of residence of such Benefice, if the Incumbent shall not continue to reside therein.

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67.
Stipend to be
paid by
Committee
of Lunatic's
Estate;

And be it further Enacted, That the Committee of the estate of any such lunatic or person of unsound mind appointed by the Court of Chancery, shall pay such stipend to the Curate so appointed as aforesaid out of the profits of the Benefice which shall come to his hands; and that it shall be lawful for the Master in Chancery to whom the matter of the lunacy shall be referred, and he is hereby required to allow every such payment in the accounts of such Committee.

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68.
Or recovered
by Sequestra-
tion.

Provided always, and be it Enacted, That in case of the wilful neglect or refusal of such Committee to pay such stipend or any part thereof, it shall be lawful for the Bishop to sequester the profits of such Benefice until such stipend or so much thereof as shall remain due and unpaid shall have been fully paid and discharged.

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69.
Bishops may
enforce Two
Services on
Sundays in
certain cases.

And be it further Enacted, That there shall be *Two* full Services, each of such Services to include a sermon or lecture, on every Sunday throughout the year in the Church or Chapel of every Benefice whereof the annual value shall amount to *One hundred and fifty* Pounds, and the population shall amount to *Four hundred* Persons, unless the Bishop of the Diocese shall for good cause dispense with one of such Services, or any part thereof; and it shall be lawful for the Bishop, in his discretion, to order that there shall be *Two* such full Services as aforesaid on every Sunday throughout the year in the Church or Chapel of every Benefice within his Diocese, whatever may be the annual value or the population thereof: Provided always, That nothing herein contained shall be taken to repeal or affect the provisions of an Act passed in the fifty-eighth year of the reign of his late Majesty King GEORGE the Third, intituled, "An Act for building and promoting the building of additional Churches in populous Parishes," by which the Bishop of any Diocese is empowered to direct the performance of a third or additional Service in the several Churches or Chapels within his Diocese, under the circumstances therein mentioned.

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Not to affect
the Provisions
of the Act
58 G. 3. c. 45,
s. 65.

70.
Statement of
particulars
necessary to
be given, and
Declaration to
be made, on
application for
a License for
a Curate.

And be it Enacted, That every Bishop to whom any application shall be made for any license for a Curate to serve for any person not duly residing upon his Benefice, shall, before he shall grant such license, require a statement of all the particulars by this Act required to be stated by any person applying for a license for non-residence;

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residence; and in every case in which application shall be made to any Bishop for a license for any stipendiary Curate to serve in any Benefice, whether the Incumbent be resident or non-resident, such Bishop shall also require a declaration in writing, to be made and
 5 subscribed by the Incumbent and the Curate, to the purport and effect that the one, *bonâ fide*, intends to pay, and the other, *bonâ fide*, intends to receive, the whole actual stipend mentioned in such statement, without any deduction or reservation whatever.

And be it Enacted, That every Curate obtaining such license as
 10 aforesaid shall pay to the Secretary or other proper Officer of the Bishop for the same the sum of *One* Pound, over and above any stamp duty which may be chargeable thereon, which sum of *One* Pound shall be in lieu of all fees heretofore demandable by such Secretary or Officer for such license, or for any Certificate connected therewith;
 15 and that whenever any person shall be licensed to two Curacies within the same Diocese at the same time, it shall be sufficient for such person to sign a declaration, appointed to be signed by an Act, intituled, "An Act of Uniformity," once only; and it shall be sufficient for such person to produce *One* Certificate only of his having so signed such
 20 declaration.

71.
 Fee for
 License.

And be it Enacted, That it shall be lawful for the Bishop of the Diocese, and he is hereby required, subject to the several provisions and restrictions in this Act contained, to appoint to every Curate of a non-resident Incumbent such stipend as is specified in this
 25 Act; and every license to be granted to a stipendiary Curate under this Act, whether the Incumbent of the Benefice be resident or non-resident thereon, shall specify the amount of the stipend to be paid to the Curate; and in case any difference shall arise between the Incumbent of any Benefice and his Curate touching such
 30 stipend, or the payment thereof or of the arrears thereof, the Bishop, on complaint to him made, may and shall summarily hear and determine the same, without appeal; and in case of wilful neglect or refusal to pay such stipend or the arrears thereof, he is hereby empowered to enforce payment of such stipend or the arrears thereof
 35 by monition and sequestration of the profits of such Benefice.

72.
 Bishop shall
 appoint Stipends to
 Curates;

and decide
 differences
 respecting
 them.

And be it Enacted, That it shall not be lawful for the Bishop to appoint for the Curate of any Benefice, to which the Spiritual Person holding the same was instituted, licensed or otherwise admitted before the *Twentieth* day of *July One thousand eight hundred and Thirteen*, any stipend exceeding *Seventy-five* Pounds per
 40 annum, together with the use of the house of residence and the gardens and stables belonging thereto, or a further sum of *Fifteen* Pounds in lieu of the use of the Rectory or Vicarage House, or other

73.
 Stipends to
 Curates of
 Incumbents
 before 20th
 July 1813 not
 to exceed a
 certain Rate.

house of residence, in case there shall be no house, or it shall not appear to the Bishop convenient to assign the house to the Curate.

74.
Stipends to
Curates to be
in proportion
to the value
and popula-
tion of the
Benefice.

And be it Enacted, That in every case in which any Spiritual Person shall have been, since the *Twentieth* day of *July One thousand eight hundred and Thirteen*, or shall hereafter be instituted or inducted or nominated or appointed to, or otherwise become Incumbent of any Benefice, and shall not duly reside thereon, unless such person shall perform the ecclesiastical duties of the same, having a legal exemption from residence or a license to reside out of the same, or out of the house of residence belonging to the same, the Bishop shall appoint for the Curate licensed to serve such Benefice such stipend as is hereinafter next mentioned; (that is to say) such stipend shall in no case be less than *Eighty Pounds* per annum, or than the annual value of the Benefice if such value shall not amount to *Eighty Pounds*; nor less than *One hundred Pounds* per annum, or than the whole value, if such value shall not amount to *One hundred Pounds*, in any parish or place where the population shall amount to *Three hundred Persons*; nor less than *One hundred and twenty Pounds* per annum, or than the whole value, if such value shall not amount to *One hundred and twenty Pounds*, in any parish or place where the population shall amount to *Five hundred Persons*; nor less than *One hundred and fifty Pounds* per annum, or than the whole value, if such value shall not amount to *One hundred and fifty Pounds*, in any parish or place where the population shall amount to *One thousand Persons*.

75.
Larger Sti-
pends in
certain cases
of larger
value and
population.

And be it Enacted, That where the annual value of any such Benefice shall exceed *Four hundred Pounds*, it shall be lawful for the Bishop to assign to the Curate, being resident within the same, and serving no other Cure, a stipend of *One hundred Pounds*, notwithstanding the population may not amount to *Three hundred Persons*; and that where the annual value of any such Benefice shall exceed *Four hundred Pounds*, and the population shall amount to *Five hundred Persons*, it shall be lawful for the Bishop to assign to the Curate, being resident within the same, and serving no other Cure, any larger stipend, so that the same shall not exceed by more than *Fifty Pounds* per annum the amount of the stipend hereinbefore required to be assigned to any such Curate; and that where the population of any such Benefice shall exceed *Two thousand Persons*, it shall be lawful for the Bishop to require the Incumbent thereof to nominate to him *Two Persons* to be licensed as Curates, and to assign to each such stipend as he shall think fit, not exceeding together the highest rate of stipend allowed by this Act in the case of *One* such Curate, except in cases where the Incumbent shall consent to a larger stipend.

And

And be it Enacted, That in every case in which the Bishop shall be satisfied that any Spiritual Person holding any Benefice within his Diocese is or has become non-resident, or incapable of performing the duties thereof from age, sickness or other unavoidable cause, and that, from these or from any other special and peculiar circumstances, great hardship or inconvenience would arise if the full stipend specified in this Act should be allowed to the Curate of such Benefice, it shall be lawful for such Bishop to assign to the Curate such stipend less than the full amount in this Act specified as shall appear to him just and reasonable: Provided always, That in the license granted in every such case it shall be stated that for special reasons the Bishop hath not thought proper to assign to the Curate the full stipend required by this Act: Provided also, That such special reasons shall be entered fully in a separate book to be kept for that purpose, and to be deposited in the Registry of the Diocese, which book shall not be open to inspection unless with the leave of the Bishop, as in the cases of application for licenses for non-residence.

76.
Smaller
Stipends in
certain cases.

And be it Enacted, That if any Incumbent of *Two* Benefices, residing bonâ fide in different proportions of every year on one or other of such Benefices the full period specified by this Act, shall employ a Curate to perform ecclesiastical duty interchangeably from time to time upon such of the Benefices from which he shall be absent during his own actual residence upon the other thereof, it shall be lawful for the Bishop to assign to such Curate any stipend not exceeding such stipend as would be allowed under this Act for the larger of such Benefices, nor less than would be allowed for the smaller, as to the Bishop shall under all the circumstances appear just and reasonable: Provided always, That if any such Incumbent shall employ a Curate or Curates for the whole year upon each of such Benefices, such Incumbent so residing bonâ fide as aforesaid, in such case it shall be lawful for the Bishop to assign to either or each of such Curates any such stipend less than the amount specified in this Act, as he shall think fit.

77.
Stipend of
Curate
engaged to
serve inter-
changeably
at different
places be-
longing to
the same In-
cumbent.

And be it Enacted, That in every case where the Bishop shall find it necessary or expedient for obtaining the proper performance of ecclesiastical duties to license any Spiritual Person holding any Benefice to serve as Curate of any adjoining or other parish or place, it shall be lawful for such Bishop, if he shall think fit, to assign to such person so licensed a stipend less by a sum not exceeding *Thirty* Pounds per annum than the stipend which in the several cases in this Act specified the Bishop is required to assign; and in every case where the Bishop shall find it necessary or expedient to license the same person to serve as Curate for two parishes

78.
How the
Stipends shall
be adjusted
where the
Curate is
permitted to
serve in an
adjoining
Parish.

or places, it shall be lawful for such Bishop, if he shall think fit, to direct that during such time as such Curate shall serve the Churches or Chapels of such two parishes or places, the stipend to be received by him for serving each of the said Churches or Chapels shall be less by a sum not exceeding *Thirty* Pounds per annum than the stipend which in several cases hereinbefore specified the Bishop is required by this Act to assign. 5

79.
Agreements
for Stipends
to Curates
contrary to
this Act void.

And be it Enacted, That all agreements made or to be made between persons holding Benefices and their Curates, in fraud or derogation of the provisions of this Act, and all agreements whereby any Curate shall undertake or in any manner bind himself to accept or be content with any stipend less than that which shall be assigned by his license, shall be void to all intents and purposes, and shall not be pleaded or given in evidence in any court of law or equity; and, notwithstanding the payment and acceptance, in pursuance of any such agreement, of any sum less than that assigned by the license, or any receipt, discharge or acquittance that may be given for the same, the Curate and his personal representatives shall be and remain entitled to the full amount of the stipend assigned by his license; and the payment of so much thereof as shall be proved to the satisfaction of the Bishop to remain unpaid shall, together with full costs of recovering the same as between proctor and client, be enforced by monition, and by sequestration of the profits of the Benefice, to be issued by the Bishop for that purpose, on application made by the Curate or his representatives; provided that such application shall in every such case be made to the Bishop within *Twelve* Months after he shall have quitted his Curacy, or have died: Provided also, That no sequestration by virtue of this enactment shall affect the profits of any Benefice beyond the time during which the Benefice shall be held by the person liable to make the payment in respect of which such profits shall be sequestered. 10 15 20 25 30

80.
Curate's Stipend, if of the value of the Benefice, shall be liable to all charges.

And be it Enacted, That in every case in which the Bishop shall assign to any Curate a stipend equal to the annual value of the Benefice of which he is licensed to serve, such stipend shall be subject to deduction in respect to all such charges and outgoings as may legally affect the value of such Benefice, and to any loss or diminution which may lessen such value, without the wilful default or neglect of the Spiritual Person holding the Benefice. 35

81.
The Bishop to allow the Rector, &c., to deduct from Curate's Stipend for Repairs to a limited Amount, in certain cases.

And be it Enacted, That in every such case as last aforesaid it shall be lawful for the Bishop, upon the application of the Spiritual Person holding the Benefice, to allow such Spiritual Person to retain in each year so much money, not exceeding in any case *One-fourth* part of the annual value, as shall have been actually expended 40

pended during the year in the repair of the Chancel and of the house of residence, and premises and appurtenances thereto belonging, in respect of which such Spiritual Person, or his executors or administrators, would be liable for dilapidations to the successor; and it shall also be lawful for the Bishop in like manner to allow any Spiritual Person holding any Benefice, the annual value whereof shall not exceed *One hundred and fifty* Pounds, to deduct from the stipend assigned to the Curate in each year so much money as shall have been actually expended in such repairs, above the amount of the surplus remaining of such value after payment of such stipend; provided that the sum so deducted, after laying out such surplus, shall not in any year exceed *One-fourth* part of such stipend.

And be it Enacted, That it shall be lawful for the Bishop who shall have granted any license to any Curate to serve in any Benefice, the Incumbent whereof is not resident for *Four* Months in each year; and who shall have required such Curate to reside in the house of residence belonging to the Benefice, to assign to such Curate such house of residence, together with the offices, stables, gardens and appurtenances thereto belonging, or any part or parts thereof, without payment of any rent, and also to assign any portion of glebe land adjacent to the house, and not exceeding *Four* statute Acres, at such rent as shall be fixed by the Archdeacon of the Archdeaconry, or by the Rural Dean, if any, of the Deanery or District within which the Benefice is situate, and *One* neighbouring Incumbent, and approved of by the Bishop, during the time of such Curate's serving the Cure, or during the non-residence of the Incumbent of such Benefice; and it shall be lawful for the Bishop making any such assignment to any Curate to sequester the profits of the Benefice in any case in which possession of the premises so assigned shall not be given up to the Curate, and until such possession shall be given, and to direct the application of the profits arising from such sequestration as is hereinbefore directed in the case of sequestration for non-residence, or to remit the same, or any part thereof, as the Bishop shall in his discretion think fit.

82.
Curates directed to reside in Parsonage House in case of Non-residence of Incumbents may have certain Portion of Glebe assigned to him by Bishop.

And be it Enacted, That in every case where the Bishop shall assign to the Curate licensed to serve in any Benefice a stipend not less than the whole value of the same, and shall, in addition to such stipend, direct that such Curate shall reside in the house of residence belonging to such Benefice, such Curate shall be liable during the time of his serving such Cure to the same taxes and parochial rates and assessments, in respect of such house, premises and appurtenances thereto belonging, as if he had been Incumbent of the Benefice: Provided always, That in every other case in which the

83.
Curates to pay Taxes of Parsonage Houses in certain cases.

Curate shall so reside by direction of the Bishop, it shall be lawful for such Bishop, if he shall think fit, to direct that the Incumbent shall repay to the Curate all such sums as he may have been required to pay and shall have actually paid for any such taxes, parochial rates or assessments as shall become due at any time after the *passing of this Act*, and the Bishop may, if necessary, enforce payment thereof by monition and sequestration of the profits of such Benefice. 5

84.
Bishop may direct the Curate to give up possession of the House.

And be it Enacted, That it shall be lawful for the Bishop, at any time, upon *Three Months'* notice in writing, to direct any Curate to deliver up the house of residence, and the offices, stables, gardens, and appurtenances thereto belonging, and such portion of the glebe land as shall have been assigned to such Curate, and such Curate shall thereupon peaceably deliver up the possession of the premises pursuant to such notice; and in case any such Curate shall refuse to deliver up such premises, he shall pay to the Spiritual Person holding the Benefice the sum of *Forty Shillings* for every Day of wrongful possession after the service of such Order. 10 15

85.
Rector, &c. not to dispossess Curate without Order of the Bishop, &c.

And be it Enacted, That it shall not be lawful for the person holding any Benefice, in any case in which the house of residence, with or without the offices, stables, gardens, and appurtenances thereto belonging, as the case may be, shall have been assigned to the Curate, to dispossess such Curate or take possession thereof until the permission of the Bishop shall have been given in writing for that purpose, and *Three Months'* notice thereof given to the Curate, who shall thereupon quit the same according to such notice; and every Curate who shall reside in the house of residence of any Benefice which shall become vacant shall quit such house of residence upon having *Six Weeks'* notice from the Spiritual Person inducted or licensed to such Benefice; and in case any Curate shall in either of the cases last aforesaid refuse to deliver up such premises, he shall pay to the Spiritual Person holding the Benefice *Forty Shillings* for every Day of such wrongful possession after the service of such Notice. 20 25 30

Curate to quit in Six Weeks after Notice from new Incumbent.

86.
Curate not to quit Curacy without Three Months' Notice to Incumbent and Bishop, under a Penalty.

And be it Enacted, That no Curate shall quit any Curacy to which he shall be licensed until after *Three Months'* notice of his intention given to the Incumbent of the Benefice and to the Bishop, unless with the consent of the Bishop, to be signified in writing under his hand, upon pain of paying to the Incumbent a sum not exceeding the amount of his stipend for *Six Months*, at the discretion of the Bishop, such sum to be specified in writing under the hand of the Bishop, which sum may in such case be retained out of the stipend, if the same or any part thereof shall remain unpaid, or, if the same cannot be retained out of the stipend, may be recovered by the Spiritual Person holding the Benefice by action of debt. 35 40

And

And be it Enacted, That it shall be lawful for the Bishop to license any Curate who is or shall be actually employed by the Incumbent of any Benefice within his Diocese, whether resident or non-resident, although no express nomination of such Curate shall have been made
 5 to such Bishop by the Incumbent; and that the Bishop shall have power, after having given to the Curate sufficient opportunity of showing reason to the contrary, to revoke, summarily and without further process, any license granted to any Curate, and to remove
 10 such Curate for any cause which shall appear to such Bishop to be good and reasonable; subject nevertheless to an appeal against such revocation to the Archbishop of the Province, in like manner and within the same period.

87.
 Bishop may license Curates employed without Nomination, revoke any License, and remove the Curate; subject to Appeal to the Archbishop.

And be it Enacted, That in every case in which a Benefice shall be under sequestration, it shall be lawful to the Bishop and he is
 15 hereby required to license and appoint a Curate or Curates thereto, and to assign to him or them a stipend or stipends not exceeding, in the case of any *One* such Curate, the highest rate of stipend allowed by this Act; nor where more than *One* Curate is appointed, a stipend exceeding *One hundred* Pounds to more than *One* such Curate, such
 20 stipend or stipends to be paid by the Sequestrator of such Benefice out of the profits thereof: Provided always, That not more than *One* Curate shall be appointed in any case in which there is not more than *One* Church, and the population does not exceed *Two thousand* Persons.

88.
 Bishop may appoint Curates to all sequestered Benefices.

And be it Enacted, That upon the avoidance of any Benefice by death, resignation or otherwise, the Sequestrator appointed by the Bishop shall, out of the profits thereof which shall come to his hands, pay to the Curate or Curates appointed by such Bishop to perform the ecclesiastical duties of such Benefice during the vacancy thereof, such
 25 stipend or stipends as shall be ordered to be paid to him or them by such Bishop, not exceeding the respective stipends allowed by this Act, and in proportion only to the time of such vacancy.

89.
 Stipend of Curate of sequestered Benefice to be paid by Sequestrator;

Provided always, and be it Enacted, That if the profits of such Benefice which shall have come to the hands of such Sequestrator
 35 during the vacancy thereof shall not be sufficient to pay such stipend, the same, or so much thereof as shall remain unpaid, shall be paid to such Curate by the succeeding Incumbent of such Benefice out of the profits thereof; and such Bishop is hereby empowered and required, if necessary, to enforce payment of the same by
 40 monition and sequestration of the profits of such Benefice.

90.
 And Deficiency by the succeeding Incumbent.

And be it Enacted, That every Bishop who shall grant or revoke any license to any Curate under this Act, shall and he

91.
 License to Curates, and Revocations of such Li-

censes to be entered in the Registry of the Diocese.

is hereby required to cause a copy of such license or revocation to be entered in the Registry of the Diocese; and an alphabetical list of such licenses and revocations shall be made out by the Registrar of each Diocese, and entered in a book, and kept for the inspection of all persons, upon payment of *Three Shillings*, and no more; and a copy of every such license and revocation shall be transmitted by the said Registrar to the Churchwardens or Chapelwardens of the parish, township or place to which the same relates, within *One Month* after the grant of such license or revocation thereof, to be by them deposited in the parish chest; and every Registrar who shall refuse or neglect or omit to make any such entry, or to transmit any such copy, shall forfeit for every such omission or neglect the sum of *Five Pounds*: Provided always, That every such Registrar shall for every such copy transmitted to such Churchwardens or Chapelwardens as aforesaid be entitled to demand and receive from the Incumbent of such Benefice a fee of *Ten Shillings*, and no more: Provided also, That in case the Archbishop shall, on appeal to him, annul the revocation of any such license, the Bishop by whom such revocation shall have been made shall, immediately on receiving notice from the Archbishop that he had annulled the same, make such or the like order as is hereinbefore directed to be made on the revocation of a license for non-residence being annulled, and which order shall be binding on the Registrar and Churchwardens respectively to whom the same shall be addressed.

92.
No Spiritual Person to serve more than Two Churches in One Day.

And be it Enacted, That no Spiritual Person shall serve more than *Two Churches* or *Two Chapels*, or *One Church* and *One Chapel*, in *One Day*.

93.
Provisions relating to Bishops to apply to Archbishops in their own Dioceses.

And be it Enacted, That all the powers, authorities, provisions, regulations, matters and things in this Act contained in relation to Bishops in their Dioceses shall extend and be construed to extend to the Archbishops in the respective Dioceses of which they are Bishops, and also in their own peculiar jurisdictions, as fully and effectually as if the Archbishops were named with the Bishops in every such case.

94.
Power of Archbishops and Bishops as to Benefices, &c., Exempt or Peculiar, locally situate within their Provinces, and also as to Benefices, &c. situate in more than one Province, or between the limits of Two.

And be it Enacted, That every Archbishop and Bishop, within the limits of whose Province or Diocese respectively any Benefice, exempt or peculiar, shall be locally situate, shall, except as herein otherwise provided, have, use and exercise all the powers and authorities necessary for the due execution by them respectively of the provisions and purposes of this Act, and for enforcing the same with regard thereto respectively as such Archbishop and Bishop respectively would have used and exercised if the same were not

not exempt or peculiar, but were subject in all respects to the jurisdiction of such Archbishop or Bishop; and where any Benefice, exempt or peculiar, shall be locally situate within the limits of more than *One* Province or Diocese, or where the same or any of them shall be locally situate between the limits of the *Two* Provinces, or between the limits of any *Two* or more Dioceses, the Archbishop or Bishop of the Cathedral Church to whose Province or Diocese the Parish Church of the same respectively shall be nearest in local situation shall have, use and exercise all the powers and authorities which are necessary for the due execution of the provisions of this Act, and enforcing the same with regard thereto respectively as such Archbishop or Bishop could have used if the same were not exempt or peculiar, but were subject in all respects to the jurisdiction of such Archbishop or Bishop respectively, and the same for all the purposes of this Act shall be deemed and taken to be within the limits of the Province or Diocese of such Archbishop or Bishop; provided that the Peculiars belonging to any Archbishoprick or Bishoprick, though locally situate in another Diocese, shall continue subject to the Archbishop or Bishop to whom they belong, as well for the purposes of this Act as for all other purposes of ecclesiastical jurisdiction.

Peculiars shall be subject to the Archbishop or Bishop to whom they belong.

And be it Enacted, That in every case in which jurisdiction is given to the Bishop of the Diocese or to any Archbishop under the provisions of this Act, and for the purposes thereof, and the enforcing the due execution of the provisions thereof, all other and concurrent jurisdiction in respect thereof shall, except as herein otherwise provided, wholly cease, and no other jurisdiction in relation to the provisions of this Act shall be used, exercised or enforced, save and except such jurisdiction of the Bishop and Archbishop under this Act; any thing in any Act or Acts of Parliament, or law or laws, or usage or custom to the contrary notwithstanding.

95.
In every case in which Jurisdiction is given to Bishop, &c. all concurrent Jurisdiction to cease.

And be it Enacted, That every sequestration issued under the provisions of this Act, or of the hereinbefore recited Act of the seventeenth year of the reign of King GEORGE the Third, shall have priority, and the sums to be thereby recovered shall be paid and satisfied in preference to all other sequestrations and the sums to be thereby recovered, except such sequestrations as shall be founded on judgments duly signed and docketed before the *passing of this Act*.

96.
Sequestrations under this Act to have priority.

AND for discouraging frivolous Appeals; BE it Enacted, That in all cases where any Appeal shall, under the provisions of this Act, be made to any Archbishop against any Act done or refused to be done, or any determination made, by any Bishop, no proceeding shall be

97.
Appellant to give Security for Costs.

had thereon until the Appellant shall have given security, in such form and to such amount as the Archbishop shall direct, for payment to the Bishop of such costs as shall be awarded by the Archbishop, if he shall decide against the Appellant; and the Archbishop, when he shall decide the merits of the Appeal against the Appellant, shall 5 by writing also award whether any and what amount of costs shall be paid by the Appellant to the Bishop Respondent, and such Bishop shall be entitled to recover the amount so awarded by action of debt.

98.
Regulations
respecting
Monitions
and Sequestrations.

And be it Enacted, That in all cases in which proceedings under 10 this Act are directed to be by monition and sequestration, such monition shall issue under the hand and seal of the Bishop, and shall be served personally upon the Spiritual Person therein named, by showing the same to him under seal, and leaving with him a true copy thereof; or in case such Spiritual Person cannot be found, such 15 monition shall be served by leaving a true copy thereof at his usual or last known place of residence, and by affixing another copy thereof upon the church door of the parish in which such place of residence shall be situate, and also by leaving another copy of such monition with the officiating Minister or one of the Churchwardens 20 of the said parish, and also by affixing a copy of such monition on the church door of the parish in which the Benefice of such Spiritual Person shall be situate; and such monition shall, immediately after the service thereof, be returned into the Consistorial Court of such Bishop, and be there filed, together with an affidavit of the 25 time and manner in which such monition shall have been served; and thereupon it shall be competent to the party monished to show cause, by affidavit or otherwise, as the case may require, why a sequestration should not issue according to the tenor of such monition; and if such Spiritual Person shall not, within the time 30 assigned by such monition, show sufficient cause to the contrary, such sequestration shall issue under the seal of the Consistorial Court of such Bishop, and shall be served and returned into the registry of such Court in like manner as is hereinbefore directed with respect to monitions issued under the provisions of this Act. 35

99.
Sequestration
not to issue
after Monition
until Service
of Order to
reside.

Provided always, and be it Enacted, That in any case of non-residence in which a monition shall have been served upon any Spiritual Person under the provisions of this Act, requiring such Spiritual Person to reside on his Benefice, no sequestration shall issue until an order requiring such Spiritual Person to proceed and reside upon 40 such Benefice within *Thirty* Days, as hereinbefore enacted, shall have been served upon him in the same manner as is hereinbefore directed as to the service of monitions.

And

And be it Enacted, That all penalties and forfeitures which shall be incurred under this Act by any Spiritual Person holding a Benefice shall and may be sued for and recovered in the Court of the Bishop of the Diocese in which such Benefice is situate, and by
 5 some person duly authorized for that purpose by such Bishop by writing under his hand and seal, and in no other Court, and by or at the instance of no other person whatever; and that the payment of every such penalty or forfeiture, together with the reasonable expense incurred in recovering the same, shall and may be enforced
 10 by monition and sequestration; and that it shall and may be lawful for such Bishop, by any order made for that purpose in writing under his hand, and to be filed in the registry of the Diocese, to direct that every such penalty or forfeiture so recovered as aforesaid, and which shall not have been remitted in whole or in part, or so
 15 much thereof as shall not have been remitted, shall be applied towards the augmentation or improvement of such Benefice or of the house of residence thereof, or of any of the buildings or appurtenances thereof.

100.
 Recovery of
 Penalties
 against
 Spiritual
 Persons.

And be it Enacted, That all fees, charges, costs and expenses
 20 incurred or directed to be paid by any Spiritual Person holding any Benefice under the provisions of this Act, which shall remain unpaid for the period of *Twenty-one* Days after demand thereof in writing, delivered to or left at the usual or last place of abode of such Spiritual Person, may be recovered by monition and sequestration:
 25 Provided always, That it shall be lawful for the person or persons of whom any such fees, costs, charges, and expenses shall be so demanded, to apply to the Bishop of the Diocese to order the taxation thereof, and such Bishop shall thereupon order some proper person to tax and settle the same; and the certificate of allowance by the
 30 person so to be appointed of such fees, costs, charges and expenses so to be taxed, shall be final.

101.
 Recovery of
 Fees, &c.

And be it Enacted, That all penalties and forfeitures under this Act incurred by Persons not Spiritual, or by Spiritual Persons not holding Benefices, shall be sued for and recovered by any person
 35 who will sue for the same by action of debt in any of His Majesty's Courts of Record at Westminster.

102.
 Recovery of
 Penalties
 against lay or
 unbeneficed
 Persons.

And be it Enacted, That no Penalty shall be recovered against any Spiritual Person, under the provisions of this Act, other or further than those which such Spiritual Person may have incurred
 40 during the year ending on the *Thirty-first* day of *December* immediately preceding the commencement of such proceeding.

103.
 Penalties not
 recoverable
 for more than
 One Year.

104.
Application of
Penalties.

And be it Enacted, That all Penalties recovered under the provisions of this Act, the application of which is not specially directed thereby, shall be paid over to the Treasurer of the Governors of the Bounty of Queen ANNE, to be applied to the purposes of the said Bounty.

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105.
Commence-
ment and
Conclusion of
the Year.

And be it Enacted, That for all the purposes of this Act, except as herein otherwise provided, the Year shall be deemed to commence on the *First* day of *January*, and be reckoned therefrom to the *Thirty-first* day of *December*, both inclusive.

106.
Calendar
Months to be
taken for the
purposes of
this Act.

And be it Enacted, That for all the purposes of this Act the 10
Months therein named shall be taken to be *Calendar* Months, except in any case in which any Month or Months are to be made up of different periods less than a Month, and in every such case *Thirty* Days shall be deemed a Month.

107.
Certified
Copy of Entry
to be Evi-
dence of
License.

And be it Enacted, That in every case where by the provisions 15
of this Act any License is required to be entered by the Registrar of the Diocese, a copy of every such entry, certified by the Registrar, shall be admissible as evidence in all Courts and Places whatever.

108.
Affidavits how
to be made.

And be it Enacted, That where any Oath or Affidavit is by this 20
Act required to be made, or authority is hereby given to any Bishop or other person to require any facts to be verified by Oath or Affidavit, such Oath or Affidavit shall and may be made either before some Ecclesiastical Judge or his Surrogate, or before a Justice of the Peace, or before a Master or Master Extraordinary in 25
Chancery.

109.
Construction
of Term
"Cathedral
Preferment."

And be it Enacted, That in all cases where the term "Cathedral 30
Preferment" is used in this Act, it shall be construed to comprehend (unless it shall otherwise appear from the context) every Deanery, Archdeaconry, Prebend, Canonry, Office of Minor Canon, Priest Vicar, or Vicar Choral, having any Prebend or endowment belonging thereto, every Precentorship, Treasurership, Sub-Deanery, Chancellorship of the Church, and other Dignity and Office in any Cathedral or Collegiate Church, and every Mastership, Warden- 35
ship and Fellowship in any Collegiate Church; and that in all cases where the term "Benefice" is used in this Act, the said term shall be understood and taken to mean Benefice with Cure of Souls, and no other (unless it shall otherwise appear from the context), and therein to comprehend all Parishes, Perpetual Curacies, Donatives, endowed Chapels, Parochial Chapelries, and Chapelries or Districts having Churches or Chapels with Districts belonging or reputed to belong thereto.

Definition of
the term
"Benefice."

And

And be it further Enacted, That in any case in which the consent of the Patron of any Benefice shall be required to the exercise of any power given by this Act, and the patronage of such Benefice shall be in the Crown, the consent of the Crown to the exercise of such power shall be testified in the manner hereinafter mentioned; (that is to say) if such Benefice shall be above the yearly value of *Twenty* Pounds in the King's Books, the instrument by which the power shall be exercised shall be executed by the Lord High Treasurer or First Lord Commissioner of the Treasury for the time being; and if such Benefice shall not exceed the yearly value of *Twenty* Pounds in the King's Books, such instrument shall be executed by the Lord High Chancellor, Lord Keeper or Lords Commissioners of the Great Seal for the time being; and if such Benefice shall be within the patronage of the Crown in right of the Duchy of Lancaster, such instrument shall be executed by the Chancellor of the said Duchy for the time being; and the execution of such instrument by such person or persons shall be deemed and taken, for the purposes of this Act, to be an execution by the Patron of the Benefice.

110.
Manner in which Consent of Patron shall be testified, where Patronage of Benefice is in the Crown.

And be it further Enacted, That in any case in which the consent of the Patron of any Benefice shall be required to the exercise of any power given by this Act, and the Patron of such Benefice shall be a minor, idiot, lunatic or feme covert, it shall be lawful for the guardian or guardians, committee or committees, or husband of such Patron (but, in case of a feme covert, with her consent in writing), to execute the instrument by which such power shall be exercised, in testimony of the consent of such Patron; and such execution shall, for the purposes of this Act, be deemed and taken to be an execution by the Patron of the Benefice.

111.
Where Patron is an incapacitated Person.

And be it further Enacted, That in any case in which the consent of the Patron of any Benefice shall be required to the exercise of any power given by this Act, and the advowson and right of patronage of such Benefice shall be part of the possessions of the Duchy of Cornwall, the consent of the Patron of such Benefice to the exercise of such power shall be testified in the manner hereinafter mentioned; (that is to say) the instrument by which the power shall be exercised shall be executed by the Duke of Cornwall for the time being, if of full age; but if such Benefice shall be within the Patronage of the Crown, in right of the Duchy of Cornwall, such instrument shall be executed by the same person or persons who is or are by this Act authorized to testify the consent of the Crown to the exercise of any power given by this Act in respect of any Benefice in the patronage of the Crown; and the execution of such instrument by such person or persons shall be deemed and taken, for

112.
Where Patronage is part of the possessions of the Duchy of Cornwall.

the purposes of this Act, to be an execution by the Patron of the Benefice.

113.
Value how to
be computed.

And be it Enacted, That the annual value of all Cathedral Preferments and Benefices shall, for all the purposes of this Act, be the net annual value, estimated according to the Returns made to His Majesty's Commissioners appointed to inquire, amongst other things, respecting the Revenues belonging to all Ecclesiastical Benefices in England and Wales, and the Report made by the said Commissioners bearing date the Sixteenth day of June in the year One thousand eight hundred and Thirty-five, until other Returns shall be made to Commissioners appointed by His Majesty in that behalf, and after such other Returns shall be made, and printed by His Majesty's Printer, then according to the latest Returns so to be made and printed: Provided always, That where no such Return shall have been made of the value of any Cathedral Preferment or Benefice, it shall be lawful for the Court before whom any suit shall be depending for the recovery of any penalty or forfeiture under this Act, and for any Bishop acting under the provisions of this Act, to proceed upon such information as such Court or Bishop may be able to procure touching the value of such Benefice.

114.
Distance how
to be com-
puted.

And be it Enacted, That the distance between any two Benefices for the purposes of this Act shall be computed from the Church of the one to the Church of the other by the nearest road or footpath, or by an accustomed ferry; and if on one of the said Benefices there be two or more Churches, then the distance shall be computed from or to the nearest of such Churches, as the case may be; or if on one of such Benefices there be no Church, then in such manner as shall be directed by the Bishop of the Diocese in which the Benefice proposed to be taken and held by any Spiritual Person, in addition to one already held by him, shall be locally situate.

115.
Population
how to be
computed.

And be it Enacted, That whenever the Population of any place shall be required by this Act to be ascertained, the same shall be taken from the latest Returns of Population made under any Act of Parliament for that purpose, at the time when the question shall arise, if such Returns shall apply to the place respecting which the question shall be, but if such place shall only form part of a parish or district named in such Returns, then such Returns shall be taken to represent truly the population of the parish or district named therein, and from them the population of the place required shall be computed, according to the best evidence of which the subject shall be capable.

And

And be it Enacted, That nothing in this Act contained shall be deemed, construed or taken to derogate from, diminish, prejudice, alter or affect, otherwise than is expressly provided, any powers, authorities, rights or jurisdiction already vested in or belonging to
 5 any Archbishop or Bishop under or by virtue of any statute, canon, usage, or otherwise howsoever.

116.
 Act not to
 affect Powers
 of Bishops.

And be it further Enacted, That no provision in this Act contained shall extend or be construed to extend to that part of the United Kingdom called Ireland,

117.
 And not to
 extend to
 Ireland.

SCHEDULE

REFERRED TO IN THE FOREGOING ACT, s. 43.

Questions to be annually transmitted by each Bishop to every Spiritual Person holding any Benefice within his Diocese or Jurisdiction.

1. WHAT is the name of your Benefice?
2. In what County?
3. Name of Incumbent?
4. Is there a Glebe-house belonging to your Benefice?
5. Were you resident in the Glebe-house during the last year, for the term prescribed by Law, or there being no Glebe-house, were you resident in the parish or district within two miles of the Church or Chapel?
6. Being non-resident, were you performing the duties of your parish for the said time? If so, state where you resided, and at what distance from the Church or Chapel?
7. Were you in the last year serving any other Church or Chapel in the neighbourhood as Incumbent? If so, state the name thereof, and the distance from the above-named Church or Chapel?
8. Were you serving any other Church or Chapel in the neighbourhood as Curate? If so, state the name thereof, and distance from your own Church or Chapel?
9. What are the Services in your Church?
10. Were these Services duly performed last year?
11. What are the Services in your Chapels respectively?
12. Were these Services duly performed last year?
13. If you were non-resident, were you so by License?
14. If non-resident by License, state the ground of License, and the time when it will expire?
15. If non-resident without License, were you so by Exemption?
16. If non-resident by Exemption, state the grounds of Exemption, and the time at which it commenced?

Further

Further Questions in case the Incumbent be non-resident.

1. What is the name of your Curate ?
 2. Does he reside in the Glebe-house ?
 3. If not, does he reside in the Parish ?
 4. Does the gross value of your Benefice amount to or exceed 300*l.* per annum ?
 5. If not resident in the Parish, where does your Curate reside, and at what distance from your Church ?
 6. Does he serve any other Church or Chapel as Incumbent ? If so, state their names, and distance from your own Church or Chapel ?
 7. Does he serve any other Church or Chapel as Curate ? If so, state their names, and distance from your own Church or Chapel ?
 8. Is he licensed ?
 9. What is his Salary from you ?
 10. Has he from you any other Allowances or Emoluments ? State what, and the average Value thereof ?
 11. What is the total amount of his Emoluments ?
-

Benefices Plurality.

A

B I L L

For restraining and regulating the holding of
Benefices in Plurality, and for amending
the Laws relating to the Residence of the
Clergy.

(Prepared and brought in by
Lord John Russell and
Mr. Chancellor of the Exchequer.)

Ordered, by The House of Commons, to be Printed,
2 March 1837.

10 May 1837.—7 WILL. IV.



A

B I L L

To exempt certain Bills of Exchange and Promissory
Notes from the operation of the Laws relating to
Usury.

[Note.—The Words printed in *Italics* are proposed to be inserted
in the Committee.]

WH E R E A S by an Act passed in the fourth year of the reign of His present Majesty, intituled, “ An Act for giving to the Corporation of The Governor and Company of the Bank of England certain Privileges for a limited period under certain conditions,” Bills of Exchange and Promissory Notes, made payable at or within Three Months after the date thereof, or not having more than Three Months to run, and certain transactions in respect of such Bills, were exempted from the operations of the Statutes relating to Usury; and it is desirable to extend such exemption; *Be it therefore Enacted*, by The KING’s most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, **THAT** no Bill of Exchange or Promissory Note made payable at or within *Twelve* Months after the date thereof, or not having more than *Twelve* Months to run, shall, by reason of any interest taken thereon or secured thereby, or any agreement to pay or receive, or allow interest in discounting, negotiating or transferring the same, be void, nor shall the liability of any party to any Bill of Exchange or Promissory Note be affected by reason of any Statute or Law in force for the prevention

Preamble.

Bills of
Exchange for
Twelve
Months not to
be liable to the
Laws for the
prevention of
Usury.

of

of Usury; nor shall any person or persons drawing, accepting, indorsing or signing any such Bill or Note, or lending or advancing any money, or taking more than the present rate of legal interest in Great Britain and Ireland respectively for the loan of Money on any such Bill or Note, be subject to any penalties under any Statute or Law relating to Usury, or any other penalty or forfeiture; any thing in any Law or Statute relating to Usury in any part of the United Kingdom to the contrary notwithstanding. 5

Bills of Exchange.

A

B I L L

To exempt certain Bills of Exchange and Promissory Notes from the operation of the Laws relating to Usury.

(Prepared and brought in by
Mr. Warburton and Mr. Chancellor of the
Exchequer.)

Ordered, by The House of Commons, to be Printed,
10 May 1837.

1 May 1837.—7 WILL. IV.



A

B I L L

To provide for the Costs of Prosecutions for concealing the Birth of Children by secret Burying, or otherwise disposing of their Dead Bodies.

WHEREAS by an Act passed in the ninth year of the reign of his late Majesty King GEORGE the Fourth, intituled, "An Act for consolidating and amending the Statutes in *England* relative to Offences against the Person," it is amongst other things enacted, that if any Woman shall be delivered of a Child, and shall by secret burying or otherwise disposing of the dead body of the said Child, endeavour to conceal the Birth thereof, every such offender shall be guilty of a Misdemeanor : And whereas no provision is made by law for payment of the Costs of Prosecutions for such Misdemeanors ;

BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT where any Prosecutor or other person shall appear before any Court, on Recognizance or Subpœna, to prosecute or give evidence against any person upon any charge of having so endeavoured to conceal the Birth of any Child, every such Court is hereby authorized and empowered, whether any Bill of Indictment for such charge shall or shall not be actually preferred, to order payment of the Costs and Expenses of the Prosecutor and Witnesses for the Prosecution, together with a compensation for their trouble and loss of time, in the same manner as Courts are now by law authorized and empowered to order the same in cases of Prosecutions for Felony.

Preamble.

1.
Providing for payment of Prosecutors and Witnesses in Indictments for concealing the Birth of any Child.

R. ss. 1. 18.
19. 20. 25. 40.
M. ss. 1. 4. 10.
14. 34. 39. 42.

either of the said Acts having reference to the said first day of March, shall be done or construed with reference to the said first day of March, or done until after the *last* day of *June* now next ensuing, but every such thing and provision shall be done after and construed with reference to the said *last* day of *June*, as if the *last* day of *June* had been inserted in place of the first day of March in the said last-recited Acts of the last Session of Parliament.

3.
First Quarterly Deliveries of Copies of Registers to be in October.
R. 32, 33.
M. 24.

And be it Enacted, That notwithstanding any thing in the said last-recited Acts contained, or either of them, the first certified Copies of all the Entries of Births and Deaths, or first Certificate that there has been no Birth or Death registered in the Register Book to be kept by any Registrar of Births and Deaths; and the first certified Copy of all the Entries of Marriages, or first Certificate that there has been no Marriage entered in the Register Book kept by any Rector, Vicar, Curate, Registrar of Marriages, Registering Officer of the Society of Friends, or Secretary of a Synagogue, shall be made and given to the Superintendent Registrar in the Month of *October* now next ensuing, and shall contain and certify all the Entries made up to the time at which the same shall be so certified to be a true copy, or that there have been no Entries up to that time, as the case may be.

4.
Act may be amended or repealed this Session.

And be it Enacted, That this Act may be altered or repealed by any Act passed in this Session of Parliament.

Registration and Marriages.

A

B I L L

To suspend, for a limited time, the Operation of Two Acts passed in the last Session of Parliament, for registering Births, Death and Marriages in England, and Marriages in England.

(Prepared and brought in by
Lord John Russell and Mr. Solicitor General

Ordered, by The House of Commons, to be Printed
2 February 1837.

A

B I L L

To explain and amend Two Acts passed in the last Session of Parliament, for Marriages, and for Registering Births, Deaths and Marriages in England.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WH **E**R **E**A **S** by an Act made in the last Session of Parliament, intituled, “An Act for Marriages in England,” and by another Act, intituled, “An Act for registering Births, Deaths, and Marriages in England,” sundry provisions were made for the duties of Superintendent Registrars, and also of Registrars and Deputy Registrars of Births, Deaths, and Marriages, which several provisions require to be further explained and amended: And whereas the recited Acts require amendment in other respects; **B**E **i**t **t**herefore **E**nacted, by The KING’s most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, **T**HAT where in the said Act for Marriages in England provision is made for giving Notice of Marriage to any Registrar, and where in the last recited Act, or any Schedule thereunto annexed, mention is made of any such Notice, or of the Registrar’s Certificate of any such Notice, the same shall be construed respectively to mean the Notice to be given to the Superintendent Registrar, and the Certificate thereof to be issued by the Superintendent Registrar according to the provisions for that purpose contained in the last recited Act.

Preamble.

1.

Meaning of the words, Notice to the Registrar and Registrar’s Certificate.

2.

Certificate of Baptismal Name to be made by Registrar or Superintendent Registrar, as the case may be.

AND whereas by the said Act for registering Births, Deaths and Marriages, it is provided, that in the case of any child to which any name shall be given in baptism after its birth shall have been registered under the provisions of the said Act, a Certificate shall be delivered, in manner provided by the said Act, signed by the Minister

who shall have performed the rite of baptism, and that the Registrar shall certify upon the said Certificate the additional entry in the Register Book thereupon required by the said Act to be made, and shall forthwith send the said Certificate through the Post Office to the Registrar General; BE it Enacted, That the Certificate that such additional entry has been made shall be made and sent as aforesaid by the Registrar or Superintendent Registrar, as the case may be, to whom the Minister's Certificate shall have been delivered, according to the provisions of the said Act. 5

3.
Superintendent Registrars unduly issuing Licenses, or solemnizing Marriages, guilty of Felony.

And be it Enacted, That every Superintendent Registrar who shall knowingly and wilfully issue any License for Marriage after the expiration of *Three* calendar Months after the Notice shall have been entered by the Superintendent Registrar as provided by the last recited Act, or who shall knowingly and wilfully solemnize or permit to be solemnized in his office any Marriage in the last recited Act declared to be null and void, shall be guilty of *Felony*. 10 15

4.
Whereunto Committals shall be.

AND whereas in that part of the said Act for Registering Births, Deaths and Marriages in England, which provides for the recovery of penalties, the word "offender" has been once inserted by mistake instead of the word "offence;" BE it Enacted, That in all cases in which any Justices are by the last recited Act authorized to imprison any offender against the last recited Act, the place of imprisonment shall be the Common Gaol or House of Correction for the county, city or place where the offence shall be committed. 20

5.
Registrar General's Certificate of frivolous Caveat to be evidence.

And be it Enacted, That for the purpose of enabling any person to recover costs and damages in any action, as provided by the said Act for Marriages, from any person who shall have entered a caveat on frivolous grounds with the Superintendent Registrar, a copy of the declaration of the Registrar General, purporting to be sealed with the seal of the General Register Office, shall be evidence that the Registrar General has declared such caveat to have been entered on frivolous grounds, and that they ought not to obstruct the grant of the license or issue of the certificate, as the case may be; and such declaration shall have the effect of the declaration required in such case by the said Act for Marriages. 25 30 35

6.
Commencement of Marine Register Book.

AND whereas it hath been doubted, under the provisions of the said Act for Registering Births, Deaths and Marriages in England, when the Registration of the Births and Deaths of Persons born and dying at sea ought to begin; BE it Enacted, That the Marine Register Books shall begin with the Birth and Death respectively which shall happen of persons born or dying at sea after the *last day of June* now next ensuing, and of which a Certificate shall be 40 be

be first sent to the Registrar General, according to the provisions of the last recited Act, and shall not contain any Registry of the Birth or Death of any person born or dying at sea before the *First day of July* now next ensuing.

- 5 And be it Enacted, That it shall be lawful for the Registrar General, with the consent of the Poor Law Commissioners, to direct that any place lying wholly within any union, parish or place for which a Board of Guardians shall have been established under the provisions of an Act passed in the fourth and fifth year
10 of His present Majesty, intituled, "An Act for the Amendment and better Administration of the Laws relating to the Poor in England and Wales," shall be part of any one or more Registrars' districts within such union, parish or place, and within the superintendence of the Superintendent Registrar thereof; or if not lying wholly
15 within any one such union, parish or place as last aforesaid, then to be, for those purposes, annexed to such union, parish or place as last aforesaid, as the Registrar General, with the consent of the Poor Law Commissioners, shall direct.

7.
Provision for including extra-parochial Places in Registrar's Districts.

- And be it Enacted, That it shall be lawful for the Registrar
20 General, if he shall see fit, with the approval of One of His Majesty's Principal Secretaries of State, to unite any *Two* or more unions, parishes, or places for which a Board of Guardians shall have been established under the Act aforesaid, into one Superintendent Registrar's District; and in every such case of union the Registrar General shall
25 declare by which Board of Guardians the Superintendent Registrar shall thenceforward be appointed; and the Superintendent Registrar of the union, parish or place for which such Board is established, shall from the time of such union be the sole Superintendent Registrar of such united district; and every provision of the said Acts
30 for Marriages, and for registering Births, Deaths and Marriages, relating to Superintendent Registrars, and to the districts under their superintendence, and to Boards of Guardians within such districts, shall apply to every such Superintendent Registrar, and to every such district, and to the Board of Guardians so selected and declared;
35 and all register boxes, keys, books, documents and papers in the possession of any Superintendent Registrar who shall cease to be such under the provisions of this Act, shall be delivered to the Superintendent Registrar of the united district, and may be recovered in the manner provided by the last recited Acts, and shall be removed from
40 the office of such Superintendent Registrar to the office of the Superintendent Registrar of the united district; and the office of every Superintendent Registrar ceasing to be such under the provisions of this Act, shall from the time of such union as last aforesaid cease to be a Register Office within the meaning of the said last recited Acts;

8.
Registrar General may unite Districts.

and it shall be lawful for the Lords Commissioners of His Majesty's Treasury, or any *Three* of them, to cause to be repaid out of the Consolidated Fund such sum as the Board of Guardians shall have legally paid, or for which they may have lawfully become liable as such Guardians, for the sole purpose of providing a Register Office; 5
and in every case in which such union as last aforesaid shall be intended to take place, the Registrar General shall give public notice thereof, and of the time when the same shall take effect, by advertisement in the London Gazette, and in some newspaper circulating within the county; and every such union shall take effect from the 10
day named in such advertisement in the London Gazette.

9.
Unions may
be divided by
the Registrar
General.

And be it Enacted, That it shall be lawful for the Registrar General, if he shall see fit, with the approval of one of His Majesty's Principal Secretaries of State, to divide any union, parish or place into two or more Superintendent Registrar's Districts, and notice of every 15
such division shall be published in the London Gazette; and in every such case the Guardians shall appoint a sufficient number of persons, with such qualifications as the Registrar General may by any general rule declare to be necessary, to be Superintendent Registrars of the new Districts, and shall also appoint the District for which the Clerk 20
to the Guardians or other person who may have been theretofore appointed as Superintendent Registrar of the whole union, parish or place shall continue to be Superintendent Registrar; and every provision of the said recited Acts for Marriages, and for registering Births, Deaths and Marriages, relating to Superintendent Registrars, and the 25
Districts under their superintendence, shall apply to every Superintendent Registrar so appointed, and to the District for which he shall be so appointed.

10.
If Guardians
neglect to
form Regis-
trars' Districts,
Poor Law
Commission-
ers shall form
them.

And be it Enacted, That in case any such Board of Guardians of any union, parish or place as aforesaid, shall not have divided such 30
union, parish or place into Registrars' Districts, with the approval of the Registrar General, before the *First day of June* now next ensuing, in case the said Board was established before the *First day of March* now last past, or within *Three* calendar Months next after their establishment, in case the said Board shall have been established on 35
or after the said *First day of March*, the Poor Law Commissioners for England and Wales shall divide such union, parish or place into Registrars' Districts, and shall appoint a Registrar to each of such Districts, qualified according to the provisions of the said Act for Registering Births, Deaths and Marriages; and every Registrar so 40
appointed shall hold his office during the pleasure of the Registrar General.

11.
If Guardians
neglect to fill
up Vacancies,

And be it Enacted, That in every case in which the Clerk to any such Board of Guardians shall not think fit or shall be disqualified to accept

accept the office of Superintendent Registrar, and the Guardians shall thereupon refuse or neglect during *Days* to appoint a Superintendent Registrar properly qualified, and in every case of vacancy of the office of Registrar or Superintendent Registrar in any such union, parish or place in which the Guardians shall refuse or neglect during *Days* to appoint a Registrar or Superintendent Registrar properly qualified, the appointment shall lapse to the Registrar General.

Registrar General to fill them up.

And be it Enacted, That for better enabling fit Register Offices to be provided, it shall be lawful for any such Board of Guardians to borrow money for that purpose, and to charge the amount of the sum borrowed on the future poor rates of the parish, union or place of which they are the Guardians, in the manner provided by the said Act for amending the laws relating to the poor with respect to monies borrowed for building workhouses for the relief of the poor; save only, that the yearly instalments, by which any money borrowed as aforesaid shall be repaid, shall not be less than *One-twentieth* of the sum borrowed, with interest on the same, and need not be more in any one year.

12. Guardians may borrow Money for providing Register Offices.

And be it Enacted, That in any case in which any such Board of Guardians shall neglect or refuse to provide and uphold a Register Office according to the provisions of the said Act for registering Births, Deaths and Marriages, it shall be lawful for the Lords Commissioners of the Treasury, or any *Three* of them, on the application of the Registrar General, to give directions for providing and upholding the same, and to expend a sum not exceeding in the erection thereof, and also all sums needful for the repair and maintenance thereof from time to time, in case the Guardians shall continue to refuse or neglect to repair and uphold the same; and it shall be lawful for the said Lords Commissioners, or any *Three* of them, to make an order from time to time on such Guardians for the repayment out of the monies coming to their hands as such Guardians, of all sums so to be from time to time expended, and such order shall be binding upon the said Guardians; and the Guardians shall also be bound to pay out of the monies coming to their hands as such Guardians all costs and expenses incurred by or under the direction of the Lords Commissioners in making and enforcing such order.

13. If Guardians neglect to provide a Register Office, Registrar General may direct it to be provided

And be it Enacted, That the Registrar General shall be authorized to fix from time to time the number of Registrars of Marriage to be appointed by any Superintendent Registrar; and no Superintendent Registrar shall have power to appoint more than the number so fixed for him to appoint.

14. Registrar General to limit the number of Registrars of Marriage.

15.
Cost of Parochial Marriage Register Books and Forms, how to be defrayed.

AND whereas by the said Act for Registering Births, Deaths and Marriages, it is provided that the cost of all Marriage Register Books and Forms, for certified copies thereof furnished to the Rector, Vicar or Curate of every Church and Chapel in England wherein Marriages may lawfully be solemnized, shall be paid by the Churchwardens and Overseers of the Parish or Chapelry out of the monies in their hands as such Churchwardens or Overseers; BE it Enacted, for removing doubt as to the fund chargeable therewith, That the cost of all such books and forms shall be paid by the Churchwardens out of the monies in their hands, applicable to providing the requisites for Divine Service.

16.
Certified Copies of Register Books to be made up quarterly.

And be it Enacted, That the certified copies of the entries of Births, Deaths and Marriages, required by the said Acts for Marriages, and for registering Births, Deaths and Marriages, to be made and delivered to the Superintendent Registrar, and also the certificates to be made and delivered to the Superintendent Registrar, that there has been no Birth, Death or Marriage registered since the delivery of the last Certificate, shall in every case be made up and refer respectively to the last days of March, June, September and December then next preceding, and not to the time of the making or delivery of such Certificate when made on any subsequent day.

17.
Penalty for neglecting to send certified Copies of Register Books.

And be it Enacted, That every person who, under the provisions of the said Acts for Marriages, and for Registering Births, Deaths and Marriages, or either of them, as amended by this Act, is required to make and deliver to any Superintendent Registrar a certified Copy of the entries of any Births, Deaths or Marriages registered by him, or the Certificate required by the said Acts as amended by this Act, that there have been no entries since the last Certificate, and who shall refuse or during *One* calendar Month neglect so to do, shall be liable for every such offence to forfeit a sum not exceeding *Ten* Pounds, to be recovered as other penalties for offences against the said Acts are made recoverable: Provided always, That in such case a moiety of the penalty shall not go to the informer, but the whole shall go to the Registrar General, or such other person as the Lords Commissioners of the Treasury shall appoint, for the use of His Majesty.

18.
Authority for administering Oaths.

AND for removing of all doubt with regard to the administration of Oaths, BE it Enacted, That every person before whom, by the said Acts or either of them, an Oath is directed to be taken, is hereby authorized to administer the same.

*Marriages and Registration
Act Amendment.*

A

B I L L

To explain and amend Two Acts passed in the
last Session of Parliament, for Marriages,
and for Registering Births, Deaths and
Marriages in England.

(Prepared and brought in by
Lord John Russell, Mr. Chancellor of the
Exchequer, and Mr. Fox Maule.)

*Ordered, by The House of Commons, to be Printed,
21 April 1837.*

23 May 1837.—7 WILL. IV.



A

B I L L

[AS AMENDED BY THE COMMITTEE]

To explain and amend Two Acts passed in the last Session of Parliament, for Marriages, and for Registering Births, Deaths and Marriages in *England*.

[Note.—*The Clauses marked (A.) to (F.) were added by the Committee.*]

5 **W**HEREAS by an Act made in the last Session of Parlia-
ment, intituled, “An Act for Marriages in *England*,” and
by another Act, intituled, “An Act for registering Births, Deaths,
and Marriages in *England*,” sundry provisions were made for the duties
of Superintendent Registrars, and also of Registrars and Deputy Re-
registrars of Births, Deaths, and Marriages, which several provisions
require to be further explained and amended: And whereas the recited
Acts require amendment in other respects; **BE** it therefore Enacted,
by The KING’s most Excellent MAJESTY, by and with the Advice
10 and Consent of the Lords Spiritual and Temporal, and Commons,
in this present Parliament assembled, and by the Authority of the
same, **THAT** where in the said Act for Marriages in *England* pro-
vision is made for giving Notice of Marriage to any Registrar, and
where in the last recited Act, or any Schedule thereunto annexed,
15 mention is made of any such Notice, or of the Registrar’s Certificate
of any such Notice, the same shall be construed respectively to mean
the Notice to be given to the Superintendent Registrar, and the
Certificate thereof to be issued by the Superintendent Registrar
according to the provisions for that purpose contained in the last
20 recited Act.

Preamble.

1.
Meaning of
the words,
Notice to the
Registrar and
Registrar’s
Certificate.

AND whereas by the said Act for registering Births, Deaths and
Marriages, it is provided, that in the case of any child to which any
name shall be given in baptism after its birth shall have been regis-
tered under the provisions of the said Act, a Certificate shall be
delivered,

2.
Certificate
of Baptismal
Name to be
made by
Registrar or
Superin-
tendent

Registrar, as
the case
may be.

delivered, in manner provided by the said Act, signed by the Minister who shall have performed the rite of baptism, and that the Registrar shall certify upon the said Certificate the additional entry in the Register Book thereupon required by the said Act to be made, and shall forthwith send the said Certificate through the Post Office to the Registrar General; BE it Enacted, That the Certificate that such additional entry has been made shall be made and sent as aforesaid by the Registrar or Superintendent Registrar, as the case may be, to whom the Minister's Certificate shall have been delivered, according to the provisions of the said Act.

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3.
Superin-
tendent Re-
gistrars un-
duly issuing
Licenses, or
solemnizing
Marriages,
guilty of
Felony.

And be it Enacted, That every Superintendent Registrar who shall knowingly and wilfully issue any License for Marriage after the expiration of Three calendar Months after the Notice shall have been entered by the Superintendent Registrar as provided by the last recited Act, or who shall knowingly and wilfully solemnize or permit to be solemnized in his office any Marriage in the last recited Act declared to be null and void, shall be guilty of Felony.

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4.
Whereunto
Committals
shall be.

AND whereas in that part of the said Act for Registering Births, Deaths and Marriages in *England*, which provides for the recovery of penalties, the word "offender" has been once inserted by mistake instead of the word "offence;" BE it Enacted, That in all cases in which any Justices are by the last recited Act authorized to imprison any offender against the last recited Act, the place of imprisonment shall be the Common Gaol or House of Correction for the county, city or place where the offence shall be committed.

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5.
Registrar
General's
Certificate
of frivolous
Caveat to be
evidence.

And be it Enacted, That for the purpose of enabling any person to recover costs and damages in any action, as provided by the said Act for Marriages, from any person who shall have entered a caveat on frivolous grounds with the Superintendent Registrar, a copy of the declaration of the Registrar General, purporting to be sealed with the seal of the General Register Office, shall be evidence that the Registrar General has declared such caveat to have been entered on frivolous grounds, and that they ought not to obstruct the grant of the license or issue of the certificate, as the case may be; and such declaration shall have the effect of the declaration required in such case by the said Act for Marriages.

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6.
Commence-
ment of
Marine Regis-
ter Book.

AND whereas it hath been doubted, under the provisions of the said Act for Registering Births, Deaths and Marriages in *England*, when the Registration of the Births and Deaths of Persons born and dying at sea ought to begin; BE it Enacted, That the Marine Register Books shall begin with the Birth and Death respectively which shall happen of persons born or dying at sea after the last day

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day of June now next ensuing, and of which a Certificate shall be first sent to the Registrar General, according to the provisions of the last recited Act, and shall not contain any Registry of the Birth or Death of any person born or dying at sea before the First day
5 of July now next ensuing.

CLAUSE (A.)
Privilege of
franking
extended to
the United
Kingdom.

And be it Enacted, That the Registrar General may receive and send by the General Post from and to all ports and places in the United Kingdom of *Great Britain* and *Ireland*, all letters and packets relating exclusively to the execution of the said Acts for Marriages,
10 and for registering Births, Deaths and Marriages, or of this Act, free from the duty of postage, subject to the provisions and conditions of the said Act for registering Births, Deaths and Marriages, with respect to letters and packets so received or sent by him from and to places in *England*.

15 And be it Enacted, That it shall be lawful for the Registrar General, if he shall think fit, to direct that the place of Birth or Death of any person whose Birth or Death shall be registered under the said Act for registering Births, Deaths and Marriages, shall be added to the entry in such manner as the Registrar General shall
20 direct; and such addition, when so made, shall be taken to all intents to be part of the entry in the Register.

CLAUSE (B.)
Place of Birth
or Death may
be inserted in
the Register.

And be it Enacted, That it shall be lawful for the Registrar General, with the consent of the Poor Law Commissioners, to direct that any place lying wholly within, but not being part of, any
25 union, parish or place for which a Board of Guardians shall have been established under the provisions of an Act passed in the fourth and fifth years of His present Majesty, intituled, "An Act for the Amendment and better Administration of the Laws relating to the Poor in *England* and *Wales*," shall be part of any one or more Registrars' districts
30 within such union, parish or place, and within the superintendence of the Superintendent Registrar thereof; or if not lying wholly within any one such union, parish or place as last aforesaid, then to be, for those purposes, annexed to such union, parish or place as last aforesaid, as the Registrar General, with the consent of the Poor
35 Law Commissioners, shall direct.

7.
Provision for
including
extra-paro-
chial Places
in Registrar's
Districts.

And be it Enacted, That it shall be lawful for the Registrar General, if he shall see fit, with the approval of One of His Majesty's Principal Secretaries of State, to unite any Two or more unions, parishes, or places for which a Board of Guardians shall have been
40 established under the Act last aforesaid, or any Two or more Superintendent Registrars' Districts, into one Superintendent Registrar's District; and in every such case of union the Registrar General shall declare by which Board of Guardians the Superintendent Registrar shall thenceforward be appointed; and the Superintendent Registrar

8.
Registrar
General
may unite
Districts.

of the union, parish or place for which such Board is established, shall from the time of such union be the sole Superintendent Registrar of such united district; and every provision of the said Acts for Marriages, and for registering Births, Deaths and Marriages, relating to Superintendent Registrars, and to the districts under their superintendence, and to Boards of Guardians within such districts, shall apply to every such Superintendent Registrar, and to every such district, and to the Board of Guardians so selected and declared; and all register boxes, keys, books, documents and papers in the possession of any Superintendent Registrar who shall cease to be such under the provisions of this Act, shall be delivered to the Superintendent Registrar of the united district, and may be recovered in the manner provided by the last recited Acts, and shall be removed from the office of the person ceasing to be Superintendent Registrar to the office of the Superintendent Registrar of the united district; and the office of every Superintendent Registrar ceasing to be such under the provisions of this Act, shall from the time of such union as last aforesaid cease to be a Register Office within the meaning of the said last recited Acts; and it shall be lawful for the Lords Commissioners of His Majesty's Treasury, or any Three of them, to cause to be repaid out of the Consolidated Fund such sum as the Board of Guardians shall have legally paid, or for which they may have lawfully become liable as such Guardians, for the sole purpose of providing a Register Office; and in every case in which such union as last aforesaid shall be intended to take place, the Registrar General shall give public notice thereof, and of the time when the same shall take effect, by advertisement in the *London Gazette*, and in some newspaper circulating within the county; and every such union shall take effect from the day named in such advertisement in the *London Gazette*.

9.
Unions may
be divided by
the Registrar
General.

And be it Enacted, That it shall be lawful for the Registrar General, if he shall see fit, with the approval of one of His Majesty's Principal Secretaries of State, to divide any union, parish or place, or any Superintendent Registrar's District, into two or more Superintendent Registrars' Districts, and notice of every such division shall be published in the *London Gazette*; and in every such case the Guardians shall appoint a sufficient number of persons, with such qualifications as the Registrar General may by any general rule declare to be necessary, to be Superintendent Registrars of the new Districts, and shall also appoint the District for which the Clerk to the Guardians or other person who may have been theretofore appointed as Superintendent Registrar of the whole union, parish or place shall continue to be Superintendent Registrar; and every provision of the said recited Acts for Marriages, and for registering Births, Deaths and Marriages, relating to Superintendent Registrars, and the Districts under their superintendence, shall apply to every Superintendent

intendent Registrar so appointed, and to the District for which he shall be so appointed.

- And be it Enacted, That in case any such Board of Guardians of any union, parish or place as aforesaid, shall not have divided such union, parish or place into Registrars' Districts, with the approval of the Registrar General, before the First day of June now next ensuing, in case the said Board was established before the First day of March now last past, or within Three calendar Months next after their establishment, in case the said Board shall have been established on or after the said First day of March, the Poor Law Commissioners for *England* and *Wales* shall divide such union, parish or place into Registrars' Districts, and shall appoint a Registrar to each of such Districts, qualified according to the provisions of the said Act for Registering Births, Deaths and Marriages; and every Registrar so appointed shall hold his office during the pleasure of the Registrar General.

10.
If Guardians neglect to form Registrars' Districts, Poor Law Commissioners shall form them.

- And be it Enacted, That in every case in which the Clerk to any such Board of Guardians shall not think fit or shall be disqualified to accept the office of Superintendent Registrar, and the Guardians shall refuse or neglect during Fourteen Days after being required so to do by the Registrar General, to appoint a Superintendent Registrar properly qualified, and in every case of vacancy of the office of Registrar or Superintendent Registrar in any such union, parish or place in which the Guardians shall refuse or neglect during Fourteen Days after such vacancy to appoint a Registrar or Superintendent Registrar properly qualified, the appointment shall lapse to the Registrar General.

11.
If Guardians neglect to fill up Vacancies, Registrar General to fill them up.

- And be it Enacted, That whenever there are Two or more Clerks to the Guardians of any union, parish or place, established under the provisions of the said Act for amending the Laws relating to the Poor, one only of whom shall possess such qualifications as the Registrar General, by any general rule, hath declared or shall declare to be necessary, or one only of whom shall think fit to accept the office of Superintendent Registrar of such union, parish or place, such one shall be the Superintendent Registrar of such union, parish or place; and if Two or more of such Clerks shall possess such qualifications as aforesaid, and be willing to accept such office, then such Guardians shall elect and choose one of such Clerks (possessing such qualifications as aforesaid) to be the Superintendent Registrar of such union, parish or place; and that no other person shall be or be elected or appointed to be Superintendent Registrar of any such union, parish or place, unless all the Clerks to the Board of Guardians (possessing such qualifications as aforesaid) shall not think fit to accept such office.

CLAUSE (C.)
If more than one Clerk to a Board of Guardians, the Board to elect one of them to be Superintendent Registrar.

CLAUSE (D.)
Exemption
of Registrars
from Paro-
chial and
Corporate
Offices.

And be it Enacted, That every Registrar of Births and Deaths, and every Registrar of Marriages, appointed under the provisions of the said Acts, or either of them, shall be freed and exempted from being returned and from serving on any jury or inquest, and from every parochial and corporate office whatever.

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12.
Guardians
may borrow
Money for
providing
Register
Offices.

And be it Enacted, That for better enabling fit Register Offices to be provided, it shall be lawful for any such Board of Guardians to borrow money for that purpose, and to charge the amount of the sum borrowed on the future poor rates of the parish, union or place of which they are the Guardians, in the manner provided by the said Act for amending the laws relating to the poor with respect to monies borrowed for building workhouses for the relief of the poor; save only, that the yearly instalments, by which any money borrowed as aforesaid shall be repaid, shall not be less than One-twentieth of the sum borrowed, with interest on the same, and need not be more in any one year.

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13.
If Guardians
neglect to
provide a
Register
Office, Regis-
trar General
may direct it
to be provided.

And be it Enacted, That in any case in which any such Board of Guardians shall neglect or refuse to provide and uphold a Register Office according to the provisions of the said Act for registering Births, Deaths and Marriages, it shall be lawful for the Lords Commissioners of the Treasury, or any Three of them, on the application of the Registrar General, to give directions for providing and upholding the same, and to expend a sum not exceeding hundred Pounds in providing the same, and also all sums needful for the repair and maintenance thereof from time to time, in case the Guardians shall continue to refuse or neglect to repair and uphold the same; and it shall be lawful for the said Lords Commissioners, or any Three of them, to make an order from time to time on such Guardians for the repayment out of the monies coming to their hands as such Guardians, of all sums so to be from time to time expended, and such order shall be binding upon the said Guardians; and the Guardians shall also be bound to pay out of the monies coming to their hands as such Guardians all costs and expenses incurred by or under the direction of the Lords Commissioners in making and enforcing such order.

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14.
Registrar
General to
limit the
number of
Registrars of
Marriage.

And be it Enacted, That the Registrar General shall be authorized to fix from time to time the number of Registrars of Marriage to be appointed by any Superintendent Registrar; and no Superintendent Registrar shall have power to appoint more than the number so fixed for him to appoint.

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CLAUSE (E.)
Provision for
Marriages in
the Welsh
tongue.

And be it Enacted, That the Registrar General, under the direction of one of His Majesty's Principal Secretaries of State, shall take order that the solemn declaration and form of words provided to be used

used in the case of Marriages under the said Act for Marriages, be truly and exactly translated into the *Welsh* Tongue, and shall cause the same so translated to be furnished to every Registrar of Marriages throughout *Wales*, and in all places where the *Welsh* Tongue is commonly used ; and it shall be lawful to use the declaration and form of words so translated and published by authority, in all places where the *Welsh* Tongue is commonly used or preferred, in such manner and form, and to the same intents and purposes as by the said Act is prescribed in the *English* Tongue.

- 10 And be it Enacted, That so much of the said Act for Marriages in *England* as requires that any notice of Marriage shall be transmitted to the Clerk to the Guardians of any Poor Law Union, or of any parish or place, or read at any meeting of such Guardians, is hereby repealed ; and that every notice of Marriage given according to the
- 15 provisions of the said Act for Marriages, or a true and exact copy thereof, under the hand of the Superintendent Registrar, shall be suspended in some conspicuous place in the office of the Superintendent Registrar during Seven Days, if the Marriage is to be solemnized by Licence, or Twenty-one Days, if the Marriage is to be solemnized
- 20 without Licence, before any Marriage shall be solemnized in pursuance of such notice.

CLAUSE (F.)
Notices of Marriage to be suspended in the Superintendent Registrar's Office, instead of being read at the meetings of Guardians.

- AND whereas by the said Act for Registering Births, Deaths and Marriages, it is provided that the cost of all Marriage Register Books and Forms for certified copies thereof, furnished to the Rector, Vicar
- 25 or Curate of every Church and Chapel in *England* wherein Marriages may lawfully be solemnized, shall be paid by the Churchwardens and Overseers of the Parish or Chapelry out of the monies in their hands as such Churchwardens or Overseers ; BE it Enacted, for removing doubt as to the fund chargeable therewith, That the cost of all
- 30 such books and forms shall be paid by the Churchwardens out of the monies in their hands, applicable to providing the requisites for Divine Service.

15.
Cost of Parochial Marriage Register Books and Forms, how to be defrayed.

- And be it Enacted, That the certified copies of the entries of Births, Deaths and Marriages, required by the said Acts for Marriages, and
- 35 for registering Births, Deaths and Marriages, or by an Act passed in this Session of Parliament, intituled, " An Act to suspend for a limited time the operation of two Acts passed in the last Session of Parliament, for registering Births, Deaths and Marriages in *England*, and for Marriages in *England*," to be made and delivered to the Superintendent Registrar, and also the certificates to be made and delivered to the
- 40 Superintendent Registrar, that there has been no Birth, Death or Marriage registered since the delivery of the last Certificate, shall in every case be made up and refer respectively to the last days of March, June, September and December then next preceding, and not to the

16.
Certified Copies of Register Books to be made up quarterly.

time of the making or delivery of such certified Copy or Certificate when made on any subsequent day.

17.
Penalty for
neglecting to
send certified
Copies of
Register
Books.

And be it Enacted, That every person who, under the provisions of the said Acts for Marriages, and for Registering Births, Deaths and Marriages, or either of them, as amended by this Act, is required to make and deliver to any Superintendent Registrar a certified Copy of the entries of any Births, Deaths or Marriages registered by him, or the Certificate required by the said Acts as amended by this Act, that there have been no entries since the last Certificate, and who shall refuse or during One calendar Month neglect so to do, shall be liable for every such offence to forfeit a sum not exceeding Ten Pounds, to be recovered as other penalties for offences against the said Acts are made recoverable: Provided always, That in such case a moiety of the penalty shall not go to the informer, but the whole shall go to the Registrar General, or such other person as the Lords Commissioners of the Treasury shall appoint, for the use of His Majesty.

18.
Authority for
administering
Oaths.

AND for removing of all doubt with regard to the administration of Oaths, BE it Enacted, That every person before whom, by the said Acts or either of them, an Oath is directed to be taken, is hereby authorized to administer the same.

Marriages and Registration Act Amendment.

B I L L

To explain and amend Two Acts passed in the last Session of Parliament, for Marriages, and for Registering Births, Deaths and Marriages in England.

(Prepared and brought in by
Lord John Russell, Mr. Chancellor of the
Exchequer, and Mr. Fox Maule.)

Ordered, by The House of Commons, to be Printed,
23 May 1837.



A

B I L L

[AS AMENDED ON RE-COMMITMENT]

To explain and amend Two Acts passed in the last Session of Parliament, for Marriages, and for Registering Births, Deaths and Marriages in *England*.

[Note.—The Clauses marked (A.) to (F.) were added by the Committee; and the Clauses marked (G.) to (O.) were added on the Re-commitment.]

5 **W**HEREAS by an Act made in the last Session of Parliament, intituled, “An Act for Marriages in *England*,” and by another Act, intituled, “An Act for registering Births, Deaths, and Marriages in *England*,” sundry provisions were made for the duties of Superintendent Registrars, and also of Registrars and Deputy Registrars of Births, Deaths, and Marriages, which several provisions require to be further explained and amended: And whereas the recited Acts require amendment in other respects; **BE it therefore Enacted**, by The KING’s most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, **THAT** where in the said Act for Marriages in *England* provision is made for giving Notice of Marriage to any Registrar, and where in the last recited Act, or any Schedule thereunto annexed, mention is made of any such Notice, or of the Registrar’s Certificate of any such Notice, the same shall be construed respectively to mean the Notice to be given to the Superintendent Registrar, and the Certificate thereof to be issued by the Superintendent Registrar according to the provisions for that purpose contained in the last recited Act.

Preamble.

1.
Meaning of the words, Notice to the Registrar and Registrar’s Certificate.

AND whereas by the said Act for registering Births, Deaths and Marriages, it is provided, that in the case of any child to which any name shall be given in baptism after its birth shall have been registered under the provisions of the said Act, a Certificate shall be delivered,

2.
Certificate of Baptismal Name to be made by Registrar or Superintendent

Registrar, as
the case
may be.

delivered, in manner provided by the said Act, signed by the Minister who shall have performed the rite of baptism, and that the Registrar shall certify upon the said Certificate the additional entry in the Register Book thereupon required by the said Act to be made, and shall forthwith send the said Certificate through the Post Office to the Registrar General; BE it Enacted, That the Certificate that such additional entry has been made shall be made and sent as aforesaid by the Registrar or Superintendent Registrar, as the case may be, to whom the Minister's Certificate shall have been delivered, according to the provisions of the said Act. 5 10

3.
Superin-
tendent Re-
gistrars un-
duly issuing
Licenses, or
solemnizing
Marriages,
guilty of
Felony.

And be it Enacted, That every Superintendent Registrar who shall knowingly and wilfully issue any License for Marriage after the expiration of Three calendar Months after the Notice shall have been entered by the Superintendent Registrar as provided by the last recited Act, or who shall knowingly and wilfully solemnize or permit to be solemnized in his office any Marriage in the last recited Act declared to be null and void, shall be guilty of Felony. 15

4.
Whereunto
Committals
shall be.

AND whereas in that part of the said Act for Registering Births, Deaths and Marriages in *England*, which provides for the recovery of penalties, the word "offender" has been once inserted by mistake instead of the word "offence;" BE it Enacted, That in all cases in which any Justices are by the last recited Act authorized to imprison any offender against the last recited Act, the place of imprisonment shall be the Common Gaol or House of Correction for the county, city or place where the offence shall be committed. 20 25

5.
Registrar
General's
Certificate
of frivolous
Caveat to be
evidence.

And be it Enacted, That for the purpose of enabling any person to recover costs and damages in any action, as provided by the said Act for Marriages, from any person who shall have entered a caveat on frivolous grounds with the Superintendent Registrar, a copy of the declaration of the Registrar General, purporting to be sealed with the seal of the General Register Office, shall be evidence that the Registrar General has declared such caveat to have been entered on frivolous grounds, and that they ought not to obstruct the grant of the license or issue of the certificate, as the case may be; and such declaration shall have the effect of the declaration required in such case by the said Act for Marriages. 30 35

6.
Commence-
ment of
Marine Regis-
ter Book.

AND whereas it hath been doubted, under the provisions of the said Act for Registering Births, Deaths and Marriages in *England*, when the Registration of the Births and Deaths of Persons born and dying at sea ought to begin; BE it Enacted, That the Marine Register Books shall begin with the Birth and Death respectively which shall happen of persons born or dying at sea after the last day 40

day of June now next ensuing, and of which a Certificate shall be first sent to the Registrar General, according to the provisions of the last recited Act, and shall not contain any Registry of the Birth or Death of any person born or dying at sea before the First day of July now next ensuing.

And be it Enacted, That the Registrar General may receive and send by the General Post from and to all ports and places in the United Kingdom of *Great Britain* and *Ireland*, all letters and packets relating exclusively to the execution of the said Acts for Marriages, and for registering Births, Deaths and Marriages, or of this Act, free from the duty of postage, subject to the provisions and conditions of the said Act for registering Births, Deaths and Marriages, with respect to letters and packets so received or sent by him from and to places in *England*.

CLAUSE (A.)
Privilege of
franking
extended to
the United
Kingdom.

And be it Enacted, That it shall be lawful for the Registrar General, if he shall think fit, to direct that the place of Birth or Death of any person whose Birth or Death shall be registered under the said Act for registering Births, Deaths and Marriages, shall be added to the entry in such manner as the Registrar General shall direct; and such addition, when so made, shall be taken to all intents to be part of the entry in the Register.

CLAUSE (B.)
Place of Birth
or Death may
be inserted in
the Register.

And be it Enacted, That it shall be lawful for the Registrar General, with the consent of the Poor Law Commissioners, to direct that any place lying wholly within, but not being part of, any union, parish or place for which a Board of Guardians shall have been established under the provisions of an Act passed in the fourth and fifth years of His present Majesty, intituled, "An Act for the Amendment and better Administration of the Laws relating to the Poor in *England* and *Wales*," shall be part of any one or more Registrars' districts within such union, parish or place, and within the superintendence of the Superintendent Registrar thereof; or if not lying wholly within any one such union, parish or place as last aforesaid, then to be, for those purposes, annexed to such union, parish or place as last aforesaid, as the Registrar General, with the consent of the Poor Law Commissioners, shall direct.

7.
Provision for
including
extra-paro-
chial Places
in Registrar
Districts.

And be it Enacted, That it shall be lawful for the Registrar General, if he shall see fit, with the approval of One of His Majesty's Principal Secretaries of State, to unite any Two or more unions, parishes, or places for which a Board of Guardians shall have been established under the Act last aforesaid, or any Two or more Superintendent Registrars' Districts, into one Superintendent Registrar's District; and in every such case of union the Registrar General shall declare by which Board of Guardians the Superintendent Registrar shall thenceforward be appointed; and the Superintendent Registrar

8.
Registrar
General
may unite
Districts.

of the union, parish or place for which such Board is established, shall from the time of such union be the sole Superintendent Registrar of such united district; and every provision of the said Acts for Marriages, and for registering Births, Deaths and Marriages, relating to Superintendent Registrars, and to the districts under their superintendence, and to Boards of Guardians within such districts, shall apply to every such Superintendent Registrar, and to every such district, and to the Board of Guardians so selected and declared; and all register boxes, keys, books, documents and papers in the possession of any Superintendent Registrar who shall cease to be such under the provisions of this Act, shall be delivered to the Superintendent Registrar of the united district, and may be recovered in the manner provided by the last recited Acts, and shall be removed from the office of the person ceasing to be Superintendent Registrar to the office of the Superintendent Registrar of the united district; and the office of every Superintendent Registrar ceasing to be such under the provisions of this Act, shall from the time of such union as last aforesaid cease to be a Register Office within the meaning of the said last recited Acts; and it shall be lawful for the Commissioners of His Majesty's Treasury, or any Three of them, to cause to be repaid out of the Consolidated Fund such sum as the Board of Guardians shall have legally paid, or for which they may have lawfully become liable as such Guardians, for the sole purpose of providing a Register Office; and in every case in which such union as last aforesaid shall be intended to take place, the Registrar General shall give public notice thereof, and of the time when the same shall take effect, by advertisement in the *London Gazette*, and in some newspaper circulating within the county; and every such union shall take effect from the day named in such advertisement in the *London Gazette*.

9.
Unions may
be divided by
the Registrar
General.

And be it Enacted, That it shall be lawful for the Registrar General, if he shall see fit, with the approval of one of His Majesty's Principal Secretaries of State, to divide any union, parish or place, or any Superintendent Registrar's District, into two or more Superintendent Registrars' Districts, and notice of every such division shall be published in the *London Gazette*; and in every such case the Guardians shall appoint a sufficient number of persons, with such qualifications as the Registrar General may by any general rule declare to be necessary, to be Superintendent Registrars of the new Districts, and shall also appoint the District for which the Clerk to the Guardians or other person who may have been theretofore appointed as Superintendent Registrar of the whole union, parish or place shall continue to be Superintendent Registrar; and every provision of the said recited Acts for Marriages, and for registering Births, Deaths and Marriages, relating to Superintendent Registrars, and the Districts under their superintendence, shall apply to every Superintendent

intendent Registrar so appointed, and to the District for which he shall be so appointed.

10.

If Guardians neglect to form Registrars' Districts, Poor Law Commissioners shall form them.

And be it Enacted, That in case any such Board of Guardians of any union, parish or place as aforesaid, shall not have divided such union, parish or place into Registrars' Districts, with the approval of the Registrar General, before the First day of July now next ensuing, in case the said Board was established before the First day of March now last past, or within Three calendar Months next after their establishment, in case the said Board shall have been established on or after the said First day of March, the Poor Law Commissioners for *England* and *Wales* shall divide such union, parish or place into Registrars' Districts, and shall appoint a Registrar to each of such Districts, qualified according to the provisions of the said Act for Registering Births, Deaths and Marriages; and every Registrar so appointed shall hold his office during the pleasure of the Registrar General.

11.

If Guardians neglect to fill up Vacancies, Registrar General to fill them up.

And be it Enacted, That in every case in which the Clerk to any such Board of Guardians shall not think fit or shall be disqualified to accept the office of Superintendent Registrar, and the Guardians shall refuse or neglect during Fourteen Days after being required so to do by the Registrar General, to appoint a Superintendent Registrar properly qualified, and in every case of vacancy of the office of Registrar or Superintendent Registrar in any such union, parish or place in which the Guardians shall refuse or neglect during Fourteen Days after such vacancy to appoint a Registrar or Superintendent Registrar properly qualified, the appointment shall lapse to the Registrar General.

CLAUZE (G.)
Assistant Registrar General may act in certain cases.

And be it Enacted, That the Registrar General shall have power, subject to the approval of the Lords Commissioners of the Treasury, to appoint, by writing under his hand, a fit person to act as his assistant in the case of the illness or absence of the Registrar General; and every such assistant, while so acting, shall have all the powers and duties, and be subject to all the provisions and penalties declared by the said Acts for Marriages, and for registering Births, Deaths and Marriages in *England*, and by this Act, or any of them; except that such assistant shall not have power to make or declare any general rule, or to rescind or alter any order, regulation or approval signified and made by the Registrar General in writing under his hand, or to dismiss any person from any office holden during the pleasure of the Registrar General: Provided always, That the time during which such assistant shall act on account of the absence of the Registrar General, shall not exceed Three calendar Months in any One Year.

CLAUSE (H.)
Deputy Super-
intendent Re-
gistrar to be
appointed.

And be it Enacted, That every Superintendent Registrar shall have the power, subject to the approval of the Registrar General, to appoint by writing under his hand, a fit person to act as his Deputy, in case of the illness or absence of such Superintendent Registrar ; and every such Deputy Superintendent Registrar, whilst so acting, shall have all the powers and duties, and be subject to all the provisions and penalties declared by the said Acts for Marriages, and for registering Births, Deaths and Marriages in *England*, and by this Act, concerning Superintendent Registrars ; and in case of the death of the Superintendent Registrar, shall act as Superintendent Registrar until another be appointed ; and every Superintendent Registrar shall be civilly responsible for the acts and omissions of his Deputy.

CLAUSE (C.)
If more than
one Clerk to
a Board of
Guardians,
the Board to
elect one of
them to be
Superin-
tendent Re-
gistrar.

And be it Enacted, That whenever there are Two or more Clerks to the Guardians of any union, parish or place, established under the provisions of the said Act for amending the Laws relating to the Poor, one only of whom shall possess such qualifications as the Registrar General, by any general rule, hath declared or shall declare to be necessary, or one only of whom shall think fit to accept the office of Superintendent Registrar of such union, parish or place, such one shall be the Superintendent Registrar of such union, parish or place ; and if Two or more of such Clerks shall possess such qualifications as aforesaid, and be willing to accept such office, then such Guardians shall elect and choose one of such Clerks (possessing such qualifications as aforesaid) to be the Superintendent Registrar of such union, parish or place ; and that no other person shall be or be elected or appointed to be Superintendent Registrar of any such union ; parish or place, unless all the Clerks to the Board of Guardians (possessing such qualifications as aforesaid) shall not think fit to accept such office.

CLAUSE (D.)
Exemption
of Registrars
from Paro-
chial and
Corporate
Offices.

And be it Enacted, That every Registrar of Births and Deaths, and every Registrar of Marriages, appointed under the provisions of the said Acts, or either of them, shall be freed and exempted from being returned and from serving on any jury or inquest, and from every parochial and corporate office whatever.

12.
Guardians
may borrow
Money for
providing
Registrar
Offices.

And be it Enacted, That for better enabling fit Registrar Offices to be provided, it shall be lawful for any such Board of Guardians to borrow money for that purpose, and to charge the amount of the sum borrowed on the future poor rates of the parish, union or place of which they are the Guardians, in the manner provided by the said Act for amending the laws relating to the poor with respect to monies borrowed for building workhouses for the relief of the poor ; save only, that the yearly instalments, by which any money borrowed as aforesaid shall be repaid, shall not be less than One-twentieth

twentieth of the sum borrowed, with interest on the same, and need not be more in any one year.

And be it Enacted, That in any case in which any such Board of Guardians shall neglect or refuse to provide and uphold a Register Office according to the provisions of the said Act for registering Births, Deaths and Marriages, it shall be lawful for the Commissioners of the Treasury, or any Three of them, on the application of the Registrar General, to give directions for providing and upholding the same, and to expend a sum not exceeding Three hundred Pounds in providing the same, and also all sums needful for the repair and maintenance thereof from time to time, in case the Guardians shall continue to refuse or neglect to repair and uphold the same; and it shall be lawful for the said Lords Commissioners, or any Three of them, to make an order from time to time on such Guardians for the repayment out of the monies coming to their hands as such Guardians, of all sums so to be from time to time expended, and such order shall be binding upon the said Guardians; and the Guardians shall also be bound to pay out of the monies coming to their hands as such Guardians all costs and expenses incurred by or under the direction of the Lords Commissioners in making and enforcing such order.

13.
If Guardians neglect to provide a Register Office, Registrar General may direct it to be provided.

And be it Enacted, That the Registrar General shall be authorized to fix from time to time the number of Registrars of Marriage to be appointed by any Superintendent Registrar; and no Superintendent Registrar shall have power to appoint more than the number so fixed for him to appoint.

14.
Registrar General to limit the number of Registrars of Marriage.

And be it Enacted, That the Registrar General, under the direction of one of His Majesty's Principal Secretaries of State, shall take order that the solemn declaration and form of words provided to be used in the case of Marriages under the said Act for Marriages, be truly and exactly translated into the *Welsh* Tongue, and shall cause the same so translated to be furnished to every Registrar of Marriages throughout *Wales*, and in all places where the *Welsh* Tongue is commonly used; and it shall be lawful to use the declaration and form of words so translated and published by authority, in all places where the *Welsh* Tongue is commonly used or preferred, in such manner and form, and to the same intents and purposes as by the said Act is prescribed in the *English* Tongue.

CLAUSE (E.)
Provision for Marriages in the *Welsh* tongue.

And be it Enacted, That so much of the said Act for Marriages in *England* as requires that any notice of Marriage shall be transmitted to the Clerk to the Guardians of any Poor Law Union, or of any parish or place, or read at any meeting of such Guardians, is hereby repealed; and that every notice of Marriage given according to the provisions of the said Act for Marriages, or a true and exact copy

CLAUSE (F.)
Notices of Marriage to be suspended in the Superintendent Registrar's Office, instead of being read at the meetings of Guardians.

thereof, under the hand of the Superintendent Registrar, shall be suspended in some conspicuous place in the office of the Superintendent Registrar during Seven Days, if the Marriage is to be solemnized by Licence, or Twenty-one Days, if the Marriage is to be solemnized without Licence, before any Marriage shall be solemnized in pursuance of such notice. 5

15.
Cost of Parochial Marriage Register Books and Forms, how to be defrayed.

AND whereas by the said Act for Registering Births, Deaths and Marriages, it is provided that the cost of all Marriage Register Books and Forms for certified copies thereof, furnished to the Rector, Vicar or Curate of every Church and Chapel in *England* wherein Marriages may lawfully be solemnized, shall be paid by the Churchwardens and Overseers of the Parish or Chapelry out of the monies in their hands as such Churchwardens or Overseers; and that the cost of Register Books of Births, and of Register Books of Deaths, and of Forms for certified copies thereof, shall be paid by the Guardians or by the Churchwardens and Overseers (as the case may be) out of the monies coming to their hands or control as such Guardians or Churchwardens and Overseers; BE it Enacted, for removing doubt as to the fund chargeable therewith, That the cost of all such books and forms shall be borne by the union, parish or place in and for which the Superintendent Registrar is appointed, to whom such Rector, Vicar or Curate is by the said Act directed to deliver one copy of such Register, or who superintends the Registrar for whose use such books were provided; and such cost shall be paid to the said Superintendent Registrar by the Guardians or by the Churchwardens and Overseers, as the case shall be, out of the Monies coming into their hands as such Guardians or such Churchwardens and Overseers for the relief of the poor. 10 15 20 25

16.
Certified Copies of Register Books to be made up quarterly.

And be it Enacted, That the certified copies of the entries of Births, Deaths and Marriages, required by the said Acts for Marriages, and for registering Births, Deaths and Marriages, or by an Act passed in this Session of Parliament, intituled, "An Act to suspend for a limited time the operation of two Acts passed in the last Session of Parliament, for registering Births, Deaths and Marriages in *England*, and for Marriages in *England*," to be made and delivered to the Superintendent Registrar, and also the certificates to be made and delivered to the Superintendent Registrar, that there has been no Birth, Death or Marriage registered since the delivery of the last Certificate, shall in every case be made up and refer respectively to the last days of March, June, September and December then next preceding, and not to the time of the making or delivery of such certified Copy or Certificate when made on any subsequent day. 30 35 40

CLAUSE (I.)
Clergy to be paid for making register in duplicate.

AND whereas it is required by the said Act for registering Births, Deaths and Marriages, that every Rector, Vicar and Curate shall register in duplicate the particulars of every Marriage solemnized by

by him, One of which Registers he is also required to deliver, when filled, to the Superintendent Registrar of the district in which such Church or Chapel may be situated, and also Four times in every year to deliver to the said Superintendent Registrar a true copy, certified
 5 by him, under his hand, of all the Entries of Marriages in the Register-book kept by him since the last Certificate; BE it Enacted, That the said Superintendent Registrar shall pay or cause to be paid to the said Rector, Vicar or Curate, the sum of Sixpence for every Entry contained in such certified Copy, which sum shall be reim-
 10 bursed to the said Superintendent Registrar by the Guardians or Overseers of the union, parish or place for which he shall be appointed Superintendent Registrar as aforesaid, in like manner as by the said Act is provided for the payment of the Registrar, on production of his accounts to the Superintendent Registrar.

15 And be it Enacted, That every person who, under the provisions of the said Acts for Marriages, and for Registering Births, Deaths and Marriages, or either of them, as amended by this Act, is required to make and deliver to any Superintendent Registrar a certified Copy of the entries of any Births, Deaths or Marriages registered by
 20 him, or the Certificate required by the said Acts as amended by this Act, that there have been no entries since the last Certificate, and who shall refuse or during One calendar Month neglect so to do, shall be liable for every such offence to forfeit a sum not exceeding Ten Pounds, to be recovered as other penalties for offences
 25 against the said Acts are made recoverable: Provided always, That in such case a moiety of the penalty shall not go to the informer, but the whole shall go to the Registrar General, or such other person as the Commissioners of the Treasury shall appoint, for the use of His Majesty.

17.
 Penalty for neglecting to send certified Copies of Register Books.

30 Provided always, and be it Enacted, That no person who shall perform in any place, whether the same be or be not a Building registered for the celebration of Marriages, any religious ceremony purporting to be a Marriage for the ease of the consciences of the parties, but not being intended to be a valid Marriage under any of
 35 the provisions of the said recited Act, and which shall have been preceded by a legal Marriage, shall therefore be guilty of Felony.

CLAUSE (K.)
 In case of Marriages for ease of the Conscience of the parties, Felony not to attach.

AND for removing of all doubt with regard to the administration of Oaths, BE it Enacted, That every person before whom, by the said Acts or either of them, an Oath is directed to be taken, is hereby
 40 authorized to administer the same.

18.
 Authority for administering Oaths.

And be it Enacted, That no Stamp Duty shall be required, nor shall any Duty be chargeable on any License under the hand and

390.

B

seal

CLAUSE (L.)
 Stamp Duty not payable on licensing Chapels for Marriages.

seal of any Bishop, or any other instrument necessary for authorizing the solemnization of Marriages in any Chapel, according to the provisions of the said Act for Marriages.

CLAUSE (M.)
Banns may
be published
in Chapels
where Mar-
riages may be
solemnized.

And be it Enacted, That the Banns of Marriage of any persons may be published in any Chapel licensed by the Bishop, according to the provisions of the said Act for Marriages, for the solemnization of Marriages, in which those persons might lawfully be married; and instead of the notice required by the said Act, the words " Banns may be published and Marriages may be solemnized in this Chapel," shall be placed in some conspicuous part in the interior of every such Chapel.

CLAUSE (N.)
Marriages may
be in licensed
Chapels,
though only
one resident
in district.

AND whereas doubts may arise whether under the said recited Acts it is lawful for the Bishop to license Chapels for Marriages between parties, one only of whom resides within the district specified in such license; BE it therefore Enacted and Declared, That all such Licenses shall be construed to extend to and authorize Marriages in such Chapels between parties, one or both of whom is or are resident within the said district: Provided always, That where the parties to any Marriage intended to be solemnized after publication of Banns, shall reside within different Ecclesiastical districts, the Banns for such Marriage shall be published as well in the Church or Chapel wherein such Marriage is intended to be solemnized, as in the Chapel licensed under the provisions of the said recited Act for the other district within which one of the parties is resident; and if there be no such Chapel, then in the Church or Chapel in which the Banns of such last-mentioned party might be legally published if the said recited Act had not been passed.

CLAUSE (O.)
Celebration
of Marriages
in separate
Buildings.

AND whereas certain provisions are made in the Act, intituled, " An Act for Marriages in England," relating to the celebration of Marriages in separate Buildings; BE it Enacted, That any consecrated or blessed Building which shall have been used during One Year next before Registration, as a place of Public Religious Worship exclusively, shall be taken to be a separate Building for the purpose of being registered for the celebration of Marriages, notwithstanding the same shall be under the same roof with any other Building, or shall form a part only of a Building.

*Marriages and Registration
Act Amendment.*

A

B I L L

[AS AMENDED ON RE-COMMITMENT]

To explain and amend Two Acts passed in the
last Session of Parliament, for Marriages,
and for Registering Births, Deaths and
Marriages in *England*.

*(Prepared and brought in by
Lord John Russell, Mr. Chancellor of the
Exchequer, and Mr. Forster.)*

Ordered, by The House of Commons, to be Printed,
10 June 1837.



A

B I L L

For Registering Births, Deaths and Marriages
in Scotland.

[Note.—The Words printed in *Italics* are proposed to be inserted
in the Committee.]

5 **W**H **H**EREA **S** it is expedient to provide the means for a com-
plete Register of the Births, Deaths and Marriages of
His Majesty's Subjects in Scotland; **B**E it therefore **E**nacted, by
The KING's most Excellent MAJESTY, by and with the Advice
and Consent of the Lords Spiritual and Temporal, and Commons,
in this present Parliament assembled, and by the Authority of the
same, THAT from and after the *First day of April* in the year *One
thousand eight hundred and Thirty-eight*, it shall be lawful for His
Majesty to provide a proper office in Edinburgh, to be called "The
10 Register Office of Births, Deaths and Marriages," for keeping a Re-
gister of all Births, Deaths and Marriages of His Majesty's Subjects
in Scotland, and to appoint for the said office, under the Seal appointed
to be kept and used in Scotland, in place of the Great Seal thereof, a
Registrar General of Births, Deaths and Marriages in Scotland, and
15 from time to time, at pleasure, to remove the said Registrar General,
and appoint some other person in his room.

Preamble.

1.
Register Office
of Births,
Deaths and
Marriages
provided.

And be it Enacted, That the Lord Treasurer or Lords Commis-
sioners of His Majesty's Treasury, or any *Three* of them, shall appoint
from time to time such officers, clerks and servants as they shall deem
20 necessary to carry on the business of the General Registry Office, and
at pleasure to remove them or any of them; and the Lord Treasurer
or Lords Commissioners shall fix the salary of the Registrar General,
so that the same shall not at any time exceed the sum of
yearly, and shall fix and from time to time regulate

2.
Lords of the
Treasury to
appoint
Officers.

the salaries of the Superintendent Registrars, officers, clerks and servants, according and in proportion to the duties they may have respectively to perform.

3.
Expenses of
Register
Offices and
books, &c.,
how to be
provided.

And be it Enacted, That the expense of providing and maintaining the Register Offices hereinafter directed to be provided, and of the Register Books, and of forms for certified Copies, and the Salaries of the Registrar General, Superintendent Registrar, and of the said officers, clerks and servants, and the amount of the sums hereinafter provided to be paid to the Registrars and Deputy Registrars for every entry in the certified Copies of the Registers, and all expenses of carrying on the business of the General Registry Office, not herein otherwise provided for, shall be paid by the said Lord Treasurer or Lords Commissioners of His Majesty's Treasury out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland.

4.
Regulation for
management
of office and
duties of
Officers to be
framed.

And be it Enacted, That one of His Majesty's Principal Secretaries of State, or the Registrar General, with the approbation of such Principal Secretary from time to time, shall and may make regulations for the management of the said Register Office, and for the duties of the Registrar General, clerks, officers and servants of the said office, and of the Superintendent Registrars, Registrars and Deputy Registrars hereinafter mentioned in the execution of this Act, so that they be not contrary to the provisions herein contained ; and the regulations so made and approved shall be binding on the said Registrar General, clerks, officers and servants, and on the Superintendent Registrars, Registrars and Deputy Registrars.

5.
Abstract of
Registers to be
laid annually
before Parlia-
ment.

And be it Enacted, That the Registrar General shall send Once in every year to one of the Principal Secretaries of State a General Abstract of the Numbers of Births, Deaths and Marriages registered during the foregoing year, in such form as the said Secretary shall from time to time require ; and every such annual general abstract shall be laid before Parliament within One Month after receipt thereof, or after the meeting of Parliament.

6.
Scotland to be
divided into
Districts.

And be it Enacted, That the said Registrar General shall, with the approbation of one of His Majesty's Principal Secretaries of State, divide the whole of Scotland into as many districts as shall be convenient for the purposes of this Act, and shall appoint, with the like approbation, a Superintendent Registrar for each such district, and every district shall be called by a particular name, and shall be a Superintendent Registrar's district ; and every such district shall, within Fourteen Days, or as soon thereafter as conveniently may be after the same shall have been approved of as aforesaid, be described and notified in the Edinburgh Gazette, and in some newspaper usually circulated within such district ; and the description thereof printed or written,

written, and in the terms in which the same shall appear in the Gazette, shall, within the space of *Two Months* next after the insertion of such description in the Gazette, be affixed on the doors of every known place of public worship within each of the parishes lying wholly
 5 or in part within such district, for *Three* consecutive Sundays; and the Superintendent Registrars shall be responsible for the so affixing such notice within their respective districts, under a penalty, in case of wilful omission, of a sum not exceeding *Ten Pounds*.

And be it Enacted, That the said Superintendent Registrar shall, under
 10 the direction of the Registrar General, and subject to the approbation of a Secretary of State as aforesaid, and having regard as far as conveniently may be to parochial boundaries, subdivide the districts hereby authorized to be fixed as aforesaid into as many subdivisions as shall be deemed necessary for the convenience of the inhabitants of such sub-
 15 divisions; and the Registrar General shall, subject to the like approbation, appoint in each such subdivision a Registrar for the Registration of Births and Deaths which shall take place within such subdivision.

7.
Districts to be subdivided.

And be it Enacted, That it shall be lawful for every such Registrar, with the approbation of the Superintendent Registrar of the district,
 20 and subject to such regulations as the Registrar General shall see fit, to appoint, by a writing under his hand, a fit person, for whom he shall be responsible, to be his Deputy in case of his illness or unavoidable absence, and to act in case of his death until the appointment of another Registrar; and every such Deputy, while so acting, shall have all
 25 the powers and duties, and be subject to all the provisions and penalties herein contained concerning Registrars.

8.
Deputy Registrars may be appointed to act during illness, &c. of Registrar.

And be it Enacted, That every such Superintendent Registrar, Registrar and Deputy Registrar shall hold his office respectively during the pleasure of the Registrar General; and upon any such officer being
 30 removed by the Registrar General from his office under this Act, notice of such removal shall be forthwith given by advertisement in some newspaper circulated in the county or counties situated in whole or in part within the district in which such officer resided; and such Superintendent Registrar, Registrar or Deputy Registrar so removed shall thence-
 35 forth cease to hold his office under this Act, and shall be incapable of being reappointed thereto: Provided always, That no Superintendent Registrar shall be so removed without the approbation of one of His Majesty's Principal Secretaries of State.

9.
Office to be held during pleasure of Registrar General.

And be it Enacted, That the appointment of Superintendent Regis-
 40 trars, Registrars or Deputy Registrars, and the duplicates and certified copies of Registers hereinafter mentioned, shall be exempt from all stamp-duties.

10.
Appointment of Registrars to be free of Stamp duty.

11.
Register
Office to be
provided if
necessary.

And be it Enacted, That in all cases where no convenient public building can be appropriated to the purposes of this Act, each of the Superintendent Registrars shall, with the approbation of the said Registrar General, provide and uphold a Register office, according to a plan to be approved of by the Registrar General, for keeping and preserving the Registers of the district of each such Superintendent Registrar; or such Superintendent Registrar, with the approbation aforesaid, may agree with the owners, trustees or other legal managers or custodiers of any public or other building, for the renting of rooms or offices fit for the reception and accommodation of the said Registers, and of the officers or persons in the charge thereof, or therewith connected; and the custody and management of the Registers deposited therein shall be under the supervision and directions of the said Superintendent Registrars.

12.
Register
Boxes to be
provided.

And be it Enacted, That the Registrar General shall furnish to every Superintendent Registrar, for the use of the Registrars under his superintendence, a sufficient number of strong iron boxes, to hold the register-books to be kept by every such Registrar; and every such box shall be furnished with a lock and two keys, and no more, and one of such keys shall be kept by the Registrar, and the other key shall be kept by the Superintendent Registrar; and the register-books of each district, while in the custody of the Registrar, and not in use, shall be always kept in the register-box, and the register-box shall always be left locked.

13.
On removal or
death of Regis-
trars, Register
Boxes, Books,
&c., to be de-
livered up to
successor.

And be it Enacted, That in every case in which any Superintendent Registrar, Registrar or Deputy Registrar shall be removed from or cease to hold the said office, or shall die, all register-boxes, keys, books, documents and papers in his possession as Superintendent Registrar, Registrar or Deputy Registrar, or which shall come into the possession of his representatives, shall be delivered up, as soon as conveniently may be, to his successor in office; and if any person shall refuse to give up any such box, key, books, documents or papers in such case as aforesaid, it shall be lawful for the Sheriff or any Justice of the Peace for the county where such person shall be or reside, upon application made for that purpose, to issue a warrant for bringing such person before such Sheriff or any Two Justices of the Peace for such county; and upon such person not appearing or not being found, it shall be lawful for the Sheriff or Justices to hear and determine the matter in a summary way; and if it shall appear to him or them that any such box, key, books, documents or papers are in the custody or power of any such person, and that he has refused or wilfully neglected to deliver the same, the said Sheriff or Justices are hereby required to commit such offender to the common gaol or house of correction for the said county, or any legal gaol or place of confinement within the same,

same; near the place where such person may be or reside, there to remain without bail until he shall have delivered up the same, or until satisfaction shall have been given in respect thereof to the person in whose custody the same ought to be; and the said Sheriff or Justices
 5 may grant a warrant to search for such box, key, books, documents or papers, as in the case of stolen goods in any dwelling-house or other premises in which it shall be proved to him or them, by the oath of any credible witness, there is reasonable cause to suspect the same to be, and the same when found shall be delivered to the person in whose
 10 custody they ought to be.

And be it Enacted, That every Registrar and Deputy Registrar shall dwell within the subdivision of which he is Registrar or Deputy Registrar, and shall cause his name, with the addition of Registrar or Deputy Registrar (as the case may be) for the subdivision for which he shall be
 15 so appointed, to be placed in some conspicuous place on or near the outer door of his own dwelling-house, and of the usual place of business of such Registrar and Deputy Registrar, if different or apart from his dwelling-house; and the Superintendent Registrar shall cause to be printed and affixed, for *Two* consecutive Sundays in the month of
 20 *March One thousand eight hundred and Thirty-eight*, and in the month of *July* yearly thereafter, upon the doors of all the known places of public worship within the districts which he shall superintend, a list of the names and places of abode of every Registrar and Deputy Registrar under his superintendence.

And be it Enacted, That the Registrar General shall cause to be printed, on account of the said Register Office, a sufficient number of separate Register Books for making entries of all Births and Deaths and Marriages of His Majesty's subjects in Scotland, according to the forms of Schedules (A.), (B.) and (C.) to this Act annexed, and to the
 25 forms annexed to an Act passed in the present Session of Parliament, intituled, "An Act to alter and amend the Laws concerning Clandestine Marriages in Scotland, and to provide for the Registration of Marriages therein;" and the said Register Books shall be of durable materials, and in them shall be printed upon each side of every leaf
 30 the heads of information herein and in the said recited Act required to be known and registered of Births, Deaths and Marriages respectively; and every page of each of such books shall be numbered progressively from the beginning to the end, beginning with number one; and every separate entry shall be also numbered progressively by printed numbers
 35 from the beginning to the end of the book, beginning with number one; and every entry shall be divided from the following entry by a printed line.

And be it Enacted, That the Registrar General shall furnish to every Superintendent Registrar, for the use of the Registrars under his super-
 244. A 3 intendence,

14.
Registrars to dwell in District, and put their names on their Houses;

and names of Registrars to be affixed on Church doors.

15.
Books to be provided.

16.
Books to be furnished to Registrars,

intendence, a sufficient number of Register Books of Births and of Register Books of Deaths, and of forms for certified copies thereof, as hereinafter provided; and every Registrar shall be authorized and is hereby required to inform himself carefully of every Birth and every Death which shall happen within his district from and after the said *First day of April*, and to learn and register, as soon after the event as conveniently may be done, without fee or reward, save as hereinafter mentioned, in one of the said books, the particulars required to be registered according to the forms in the said Schedules (A.) and (B.) respectively, touching every such Birth or every such Death, as the case may be, which shall not have been already registered, every such entry being made in order from the beginning to the end of the book as aforesaid.

17.

Parents or Occupiers of Houses to give notice of Births and Deaths happening therein.

How notice to be given of Foundlings, or exposed dead bodies.

And be it Enacted, That the father or mother of any child born, or the occupier of every house or tenement in Scotland in which any Birth or Death shall happen from and after the said *First day of April*, may within *Forty-two Days* next after the day of such Birth, or within *Seven Days* after the day of such Death respectively, give notice of such Birth or Death to the Registrar of the district; and in case any new-born child or any dead body shall be found exposed, the Session Clerk in the case of the new-born child, and the Procurator Fiscal in the case of the dead body, shall forthwith give notice and information thereof, and of the place where such child or dead body was found, to the Registrar; and for the purposes of this Act the master or keeper of every gaol, prison or house of correction, or workhouse, hospital or lunatic asylum, or public or charitable institution, shall be deemed the occupier thereof.

18.

Particulars of Births to be communicated to Registrars.

And be it Enacted, That the father or mother of every child born in Scotland from and after the said *First day of April*, or in case of the death, illness, absence or inability of the father and mother, the occupier of the house or tenement in which such child shall have been born, shall, within *Forty-two Days* next after the day of every such Birth, give information, upon being required so to do, to the said Registrar, according to the best of his or her knowledge and belief, of the several particulars hereby required to be known and registered touching the Birth of such child.

19.

Registration after *Forty-two Days* from the birth of the child.

And be it Enacted, That after the expiration of *Forty-two Days* following the day of the birth of any child, it shall not be lawful for any Registrar to register such birth, save as hereinafter is next mentioned; provided that in case the Birth of any child shall not have been registered according to the provisions hereinbefore contained, it shall be lawful for any person present at the Birth of such child, or for the father or guardian thereof, at any time within *Six calendar Months* next

next after the Birth, to make a solemn declaration of the particulars required to be known touching the Birth of such child, according to the best of his or her knowledge and belief; and it shall thereupon be lawful for the said Registrar then and there, in the presence of the

5 Superintendent Registrar, to register the Birth of the said child according to the information of the person making the said declaration; and in every such case the Superintendent Registrar before whom the said declaration is made shall sign the entry of the Birth as well as the Registrar; and for every such registry as last aforesaid the Superin-

10 tendent Registrar shall be entitled and required to demand a fee of *Two Shillings and Sixpence* from the person requiring the same to be registered; and the Registrar, over and above the fee hereinafter allowed in respect of every Birth registered by him, shall be entitled, unless the delay shall have been occasioned by his default, to have a fee of *Five*

15 *Shillings* from the person requiring the same to be registered; and no Register of Births shall be given in evidence to prove the Birth of any child, wherein it shall appear that *Forty-two Days* have intervened between the day of the Birth and the day of the registration of the Birth of such child, unless the entry shall be signed by the Superin-

20 tendent Registrar; and every person who shall knowingly register or cause to be registered the Birth of any child otherwise than hereinbefore is last mentioned, after the expiration of *Forty-two Days* following the day of the Birth of such child, shall forfeit and pay for every offence a sum not exceeding *Fifty Pounds*.

25 And be it Enacted, That after the expiration of *Six* calendar Months following the Birth of any child, it shall not be lawful for any Registrar to register the Birth of such child; and no Register of Births, except in the case of children born at sea, shall be given in evidence to prove the Birth of any child, wherein it shall appear that *Six* calendar Months

30 have intervened between the day of the Birth and the days of the registration of the Birth of such child; and every person who shall knowingly register or cause to be registered the Birth of any child after the expiration of *Six* calendar Months following the day of the birth of such child, shall forfeit and pay for every such offence a sum

35 not exceeding *Fifty Pounds*.

20.
Births not to
be registered
after Six calen-
dar Months.

And be it Enacted, That if any child born in Scotland, whose Birth shall have been registered as aforesaid, shall, within *Six* calendar Months next after it shall have been so registered, have any name given to it in baptism, the parent or guardian of such child, or other person procur-

40 ing such name to be given, may, within *Seven Days* next after such baptism, procure and deliver to the Registrar or Superintendent Registrar in whose custody the register of the Birth of the child may then happen to be, a certificate according to the form of Schedule (D.) to this Act annexed, signed by the Minister or Clergyman who shall have

21.
Name given in
the baptism
after registra-
tion may be
registered
within Six
Months.

performed the rite of baptism, which certificate such Minister or Clergyman is hereby required to deliver immediately after the baptism, whenever the same shall be then demanded; and the said Registrar or Superintendent Registrar, upon receipt of such certificate, and on payment of the fee of *One Shilling*, to which he shall be therefor entitled, shall, without any erasure of the original entry, forthwith register therein that the child was baptized by such name, and the Registrar shall thereupon certify upon the said certificate the additional entry so made, and shall forthwith send the said certificate through the post-office to the Registrar General.

22.
Case of name
given without
baptism.

Provided always, and be it Enacted, That in the case of children of parents not recognising the sacrament of baptism or infant baptism; it shall be lawful for such parents, or the guardians of such children, within *Seven Days* after any name shall have been given to any such child according to the rites or usage of the sect or persuasion to which such parents belong, to deliver to the Registrar or Superintendent Registrar in whose custody the register of the Birth of such child shall be as aforesaid, a certificate in the form of the said Schedule, signed by such parents or guardians, whereupon, and upon payment of the aforesaid fee of *One Shilling*, such Registrar or Superintendent Registrar shall, without erasure as aforesaid, register therein the name of such child, and shall certify such entry, and send the certificate to the Registrar General, as before provided.

23.
Person present
at death, or
occupier of
house, to give
notice of death.

And be it Enacted, That the medical attendant or near relatives, or some person present at the Death or in attendance during the last illness of every person dying in Scotland from and after the said *First day of April*, or in case of the death, illness, inability or default of all such persons, the occupiers of the house or tenement, or if the occupier be the person who shall have died, some inmate of the house or tenement in which such Death shall have happened, shall, within *Eight Days* next after the day of such Death, give information, upon being required so to do, to the said Registrar, according to the best of his or her knowledge and belief, of the several particulars hereby required to be known and registered touching the Death of such person: Provided always, That in every case in which a precognition touching the Death shall be held, the Procurator-fiscal, having regard to the particulars herein required to be registered concerning the Death, shall inform the Registrar of the result of such precognition, and the Registrar shall make the entry accordingly.

24.
Registrar to
give certificate
of death to
undertaker.

And be it Enacted, That every Registrar, immediately upon registering any Death, or as soon thereafter as he shall be required so to do, shall, without fee or reward, deliver to the undertaker or other person having charge of the funeral a certificate under his hand, according

to

to the form of Schedule (E.) to this Act annexed, that such Death has been duly registered; and such certificate shall be delivered by such undertaker or other person to the kirk-session, elder, beadle, sexton, grave-digger, or other person having the charge of the church-yard, church, chapel, aisle, vault, or place of interment, or having the control, management or superintendence of the burial of the dead of the parish in which the church-yard in which the body is to be buried is situated; and if any dead body shall be buried, for which no such Certificate shall have been so delivered, the person who shall bury or perform any funeral shall forthwith give notice thereof to the Registrar: Provided always, That the Procurator-fiscal, upon any precognition being held, may order the body to be buried, if he shall think fit, before registry of the Death, and shall in such case give a certificate of his order in writing under his hand, according to the form of Schedule (F.) to this Act annexed, to such undertaker or other person having charge of the funeral, which shall be delivered as aforesaid; and every person who shall bury or perform any funeral of any dead body, for which no certificate shall have been duly made and delivered as aforesaid, either by the Registrar or Procurator-fiscal, and who shall not within *Seven Days* give notice thereof to the Registrar, shall forfeit and pay any sum not exceeding *Ten Pounds* for every such offence.

And be it Enacted, That every person by whom the information contained in any Register of Birth or Death under this Act shall have been given, shall sign his name, description and place of abode in the Register; and no Register of Birth or Death, according to this Act, shall be given in evidence, which shall not be signed by some person professing to be the informant, and to be such party as is herein required to give such information to the Registrar.

25.
Information to Registrar to be signed by informant.

And be it Enacted, That every Registrar shall make out an account, four times in every year, of the number of Births and Deaths which he shall have registered since the last quarterly account, and the Superintendent Registrar shall verify and sign the same; and the collector or collectors of the cess of any of the counties within which the subdivision in which such accounts have been incurred are situated, on production of the said account so verified and signed, shall pay to the Registrar, out of the monies in their hands, such sums as he shall be entitled to receive on the said account, according to the following scale; (that is to say) for the first *Twenty* entries of Births and Deaths in every year which he shall have registered; whether the same be of Births or of Deaths indiscriminately, *Two Shillings and Sixpence* each, and *One Shilling* for every subsequent entry of Births or Deaths in each year; and such payment being duly made and vouched, such

26.
Registrars to make out account quarterly.

244. And be it Enacted, That every collector or collectors of the cess of any of the counties within which the subdivision in which such accounts have been incurred are situated, on production of the said account so verified and signed, shall pay to the Registrar, out of the monies in their hands, such sums as he shall be entitled to receive on the said account, according to the following scale; (that is to say) for the first *Twenty* entries of Births and Deaths in every year which he shall have registered; whether the same be of Births or of Deaths indiscriminately, *Two Shillings and Sixpence* each, and *One Shilling* for every subsequent entry of Births or Deaths in each year; and such payment being duly made and vouched, such

collector of cess shall be entitled to take credit therefor in his public accounts.

27.
Certified
copies in Re-
gister books to
be sent quar-
terly to the
Superinten-
dent Registrar.

And be it Enacted, That in the montus of *July* and *January*, on such days as shall from time to time be appointed by the Registrar General, every Registrar shall make and deliver to the Superintendent Registrar of his district, on durable materials, a true copy certified by him under his hand, according to the form of Schedule (G.) to this Act annexed, of all the entries of Births and Deaths in the Register Book kept by him since the last certificate, (the first of such certificates to be given in the month of *July* in the year *One thousand eight hundred and Thirty-eight*, and to contain all the entries made up to that time) and the Superintendent Registrar shall verify the same, and, if found to be correct, shall certify the same under his hand to be a true copy ; and if there shall have been no Birth or Death registered since the delivery of the last certificate, the Registrar shall certify the fact; and such certificate shall be delivered to the Superintendent Registrar as aforesaid, and countersigned by him ; and the Registrar shall keep safely each of the said Register Books until it shall be filled, and shall then deliver it to the Superintendent Registrar, to be kept by him with the records of his office.

28.
Books to be
supplied by
Registrar
General to
Superintend-
ent Regis-
trars, Session
Clerks, &c.

And be it Enacted, That the Registrar General shall from time to time furnish or cause to be furnished to the Superintendent Registrar of every district the books directed to be kept, and according to the form of the Schedule (C.) to this Act annexed, and also to such Superintendent Registrar and to every Session Clerk the books directed to be kept and referred to in the said recited Act, and described therein, and according to the form of the Schedules (A.), (B.), (C.) and (D.), and thereunto annexed ; and such Registrar General shall also furnish or cause to be furnished to every person whom the recording clerk of the Society of Friends commonly called Quakers, at their central office in London, shall from time to time certify in writing under his hand to the Registrar General to be a registering officer in Scotland of the said Society ; and also to every person whom the President for the time being of the London Committee of Deputies of the British Jews shall from time to time certify in writing under his hand to the Registrar General to be the Secretary of a synagogue in Scotland of persons professing the Jewish religion, the Register Books, according to the Schedule (C.) to this Act annexed, directed to be kept for the registration of Marriages, and the cost of such books shall be paid to the Registrar General by such Registering Officer or Secretary respectively.

29.
Certificate to
be transmitted
by Minister
to Registrar.

And be it Enacted, That every Minister, Clergyman, Priest or other person celebrating any Marriage in Scotland, such Marriage not being according

according to the rites of the Jewish religion, or of the Society of Friends, shall forthwith thereafter transmit, by post, to the Superintendent Registrar of the district in which the Marriage was celebrated, the certificate of celebration of such Marriage, signed, authenticated and
 5 witnessed as by the said Act is prescribed; and such Superintendent Registrar shall, as soon as may be after receipt thereof, enter the same in duplicate in two of the Marriage Register Books to be kept by such Superintendent Registrar, according to the form of the said Schedule (C.) hereunto annexed; and such Superintendent Registrar shall preserve
 10 carefully among the Documents in his office the certificate so signed and witnessed, and sent to him as aforesaid, until the same shall be transmitted to the Registrar General in manner hereinafter prescribed; and every such Registering Officer of Quakers, as soon as conveniently may be after the solemnization of Marriage between two Quakers, in
 15 the district for which he is Registering Officer; and every such Secretary of a Synagogue, as soon as conveniently may be after the solemnization of Marriage between any two persons professing the Jewish religion, of whom the husband shall belong to the Synagogue of which he is Secretary, shall respectively register such Marriage in duplicate, in two of
 20 the Marriage Register Books furnished to him as aforesaid, according to the form of the said Schedule (C.) hereunto annexed; and every such Registering Officer or Secretary, whether he shall or shall not be present at such Marriage, shall satisfy himself that the proceedings in relation thereto have been conformable to the usage of the said Society
 25 of Quakers, or of the persons professing the Jewish religion, as the case may be; and the entry of every such Marriage shall be signed by the Superintendent Registrar, Registering Officer or Secretary, and shall be made in order from the beginning to the end of each book, and the number of the entry in each duplicate Marriage Register Book shall be
 30 the same.

And be it Enacted, That the Superintendent Registrar of every district, and every such Registering Officer and Secretary, shall, in the months of *July* and *January* respectively, make and deliver to the Registrar General, on durable materials, a true copy certified by him
 35 under his hand of all the entries of Marriages in the Marriage Register Book kept by him since the last certificate, the first of such certified copies to be given in the month of *July* in the year *One thousand eight hundred and Thirty-eight*, and to contain all the entries made up to that time; and if there shall have been no marriage entered therein since
 40 the last certificate, shall certify the fact under his hand; and shall keep the said Marriage Register Books safely until the same shall be filled; and one copy of every such Register Book kept by the Superintendent Registrars, Registering Officers or Secretaries, when filled, or the authenticated copies thereof, as directed by the said recited Act, shall be delivered to the Registrar General, to be deposited and kept in the

30.
 Superintendent Registrar to transmit a copy of the entries to the Registrar General quarterly.

Register of Births, Deaths and Marriages at Edinburgh, and the other Copy shall remain with the Superintendent Registrar of the district for which it was kept, and the other Copy of every such Register Books of Marriages among the people called Quakers, and among persons professing the Jewish religion respectively, shall remain under the care 5 of the said people or persons respectively, to be kept with their other registers and records, and shall for the purposes of this Act be still deemed to be in the keeping of the Registering Officer or Secretary for the time being respectively.

31.
Superintendent Registrar to transmit Registers quarterly to Registrar General.

And be it Enacted, That every Superintendent Registrar shall, *Twice* 10 in every year, on such days as shall be therefor named by the Registrar General, send to the Registrar General all the copies, duly certified as aforesaid, of the Registers of Births and Deaths which he shall have received during the *Six* calendar Months next preceding such of transmission respectively; and if it shall appear, by interruption of 15 the regular progression of numbers or otherwise, that the copy of any part of any book or of any Marriage Register has not been duly delivered to such Superintendent Registrar as hereinbefore provided, he shall procure, as far as possible, consistently with the provisions of this Act, that the same may be remedied and supplied; and every Super- 20 intendent Registrar shall make out an account, *Twice* in every year, of the number of entries in the certified copies sent to him during the last half year; and the certified copies so sent to the General Registry Office shall be thereafter kept in the said office in such order and manner as the Registrar General, under the direction of the Secretary of 25 State, shall think fit, so that the same may be most readily seen and examined.

32.
Searches may be made, and certificates granted.

And be it Enacted, That every Superintendent Registrar, Registrar, Registering Officer and Secretary, who shall have the keeping for the time being of any Register Book of Births, Deaths or Marriages, shall at 30 all reasonable times allow searches to be made of any Register Book in his keeping, and shall give a copy, certified under his hand, of any entry or entries in the same, on payment of the fee hereinafter mentioned; (that is to say) for every search extending over a period not more than one year the sum of *One Shilling*; and *Sixpence* additional for every 35 additional year; and for every certificate the sum of *Two Shillings and Sixpence* for every entry contained in such certificate.

33.
Indexes to be made, which may be searched.

And be it Enacted, That every Superintendent Registrar, Registrar, Registering Officer and Secretary respectively, shall cause indexes of the Register Books in his office to be made and kept with the other 40 records of his office; and every person shall be entitled at all reasonable hours to search the said indexes, and to have a certified copy of any entry or entries in the said Register Books under the hand of the Superintendent

Superintendent Registrar, Registrar, Registering Officer or Secretary, on payment of the fees hereinafter mentioned; (that is to say) for every general search the sum of *Five Shillings*, and for every particular search the sum of *Two Shillings and Sixpence*, and for every such certified copy the sum of *Two Shillings and Sixpence*.

And be it Enacted, That the Registrar General shall cause indexes of all the said duplicates and certified copies of the Registers to be kept in the General Register Office, and every person shall be entitled, on payment of the fees hereinafter mentioned, to search the said indexes between the hours of *Ten* in the morning and *Four* in the afternoon of every day except Sundays, and to have a certified copy of any entry in the said duplicate, and certified copies of the Registers; and for every general search of the said indexes shall be paid the sum of *Twenty Shillings*, and for every particular search the sum of *One Shilling*; and for every such certified copy the sum of *Two Shillings and Sixpence*; and no more shall be paid to the Registrar General, or such other officer as shall be appointed for that purpose on his account.

34.
Indexes to be kept at Registrar General's office, where they may be searched.

And be it Enacted, That the Registrar General shall cause to be made a seal of the said Register Office, and shall cause to be sealed or stamped therewith all certified copies of entries given in the said office; and all certified copies of entries sealed or stamped with the seal of the said Register Office shall be received throughout the United Kingdom, and other His Majesty's dominions, in evidence of the Birth, Death or Marriage to which the same relates, without any further or other proof of such entry; and no certified copy, purporting to be given in the said office, shall be of any force or effect, which is not sealed or stamped as aforesaid.

35.
Seal to be kept at General Register Office.

And be it Enacted, That every sum received, and all fees levied by the Superintendent Registrar under the authority of this Act, shall be accounted for and paid over by them to the Registrar General, at such times and in such manner as he shall direct, and every sum received under the provisions of this Act, by or on account of the Registrar General, shall be accounted for and paid by the Registrar General, at such times as the Lords Commissioners of the Treasury from time to time shall direct, into the Bank of England, to the credit of His Majesty's Exchequer, according to the provisions of an Act passed in the fourth and fifth years of His Majesty, intituled, "An Act to regulate the Office of the Receipt of His Majesty's Exchequer at Westminster."

36.
Money received under this Act to be accounted for.

And be it Enacted, That every person who shall wilfully make or cause to be made, for the purpose of being inserted in any Register of Birth, Death or Marriage, any false statement touching any of the particulars

37.
Penalty on giving false information.

particulars herein required to be known and registered, shall be subject to the same pains and penalties as if he were guilty of *Perjury*.

38.
Penalty for
not trans-
mitting notices
to Superin-
tendent.

And be it Enacted, That every Minister, Clergyman or Priest celebrating any Marriage, who shall refuse or without reasonable cause omit to transmit to the Superintendent Registrar the certificate produced to him by the parties to any Marriage celebrated by him, and every Superintendent Registrar, Registering Officer or Secretary, who shall refuse or without reasonable cause omit to register any Marriage of which notice shall be given as aforesaid, and every Registrar who shall refuse, or without reasonable cause omit to register any Birth or Death of which he shall have had due notice as aforesaid, and every person having the custody of any Register Book or certified copy thereof, or of any part thereof, or any notice, who shall carelessly lose or injure the same, or carelessly allow the same to be injured whilst in his keeping, shall forfeit a sum not exceeding *Fifty Pounds* for every such offence.

39.
Penalty for de-
stroying or
falsifying
Register
Books, &c.

And be it Enacted, That every person who shall wilfully destroy or injure, or cause to be destroyed or injured, any such Register Book, or any part or certified copy of any part thereof, or of any notice or certificate, or shall falsely make or counterfeit, or cause to be falsely made or counterfeited, any part of any such Register Book, or certified copy thereof, or of any notice or certificate, or shall wilfully insert or cause to be inserted in any Register Book, or certified copy thereof, any false entry of any Birth, Death or Marriage, or shall wilfully give any false certificate, or falsify any certificate, or shall certify any writing to be a copy or extract of any Register Book, knowing the same to be false in any part thereof, or shall forge or counterfeit the seal of the Register Office, shall be guilty of *Felony*.

40.
For correcting
accidental
errors.

Provided always, and be it Enacted, That no Person charged with the duty of registering any Birth, Death or Marriage, who shall discover any error to have been committed in the form or substance of any such entry, shall be therefore liable to any of the penalties aforesaid, if, within *One* calendar Month next after the discovery of such error, in the presence of the parents of the child whose Birth may have been so registered, or of the parties married, or of *Two* persons attending upon any person in his or her last illness, whose Death may have been so registered, or in case of the death or absence of the respective parties aforesaid, then in the presence of the Superintendent Registrar, and of *Two* other credible witnesses who shall respectively attest the same, he shall correct the erroneous entry according to the truth of the case, by entry in the margin without any alteration of the original entry, and shall sign the marginal entry, and add thereunto the day of the month and year when such correction shall be made: Provided also, That in

case

case of a Marriage Register, he shall make the like marginal entry, attested in like manner, in the duplicate Register Book to be made by him as aforesaid, and in every case shall make the like alteration in the certified copy of the Register Book to be made by him as
 5 aforesaid; or in case such certified copy shall have been already made, he shall make and deliver in like manner a separate certified copy of the original erroneous entry, and of the marginal correction therein made.

And be it Enacted, That all Fines and Forfeitures by this Act or
 10 by the said recited Act imposed, unless otherwise directed, shall be recovered before the Judge Ordinary of the bounds within which the same shall be incurred, at the instance of the Registrar General, or any person aggrieved; and if, on the conviction of the offender, either on his or her confession, by the oath of any *One* or more credible witness or
 15 witnesses, such Fines and Forfeitures, with the costs of the conviction, shall not be forthwith paid, the same shall be levied by distress or pouncing and sale of the goods and chattels of the offender by warrant to be granted by the Judge Ordinary; and for want of distress, such offender may be committed to the common gaol or house of correction
 20 for the county, city or place where the offence shall be committed, without bail, for any term not exceeding *One* calendar Month, unless such Fine and Forfeiture, and all reasonable charges attending the recovery thereof, shall be sooner paid; and one *moiety* of all such Fines and Forfeitures shall go to the person who shall inform or sue
 25 and prosecute for the same, and the other *moiety* shall go to the Registrar General, or to such other person as the Lords Commissioners of the Treasury shall appoint, for the use of His Majesty; and no distress made by virtue of this Act shall be deemed unlawful, nor shall the party making the same be deemed a trespasser, on account of any
 30 defect or want of form in the summons, conviction or warrant of distress or pouncing, or on account of any irregularity which shall be afterwards committed by the party distraining; but the person or persons aggrieved by such irregularity shall recover full satisfaction for the special damages sustained, in an action in any competent court;
 35 and the decision of the Judge Ordinary in all such cases shall be final and conclusive, and not subject to review in any court or by any process whatsoever.

41.
Recovery of penalties.

And be it Enacted, That the Registrar General may receive and send by the general post, from and to places in Britain, all letters and
 40 packets relating exclusively to the execution of this Act free from the duty of postage, provided that such letters and packets as shall be sent to the Registrar General be directed to the Registrar General of Births, Deaths and Marriages, at his office; and all such letters and packets as shall be sent by the Registrar General shall be in covers with the

42.
Correspondence of Registrar General relating to this Act to be free.

words "Registrar General of Births, Deaths and Marriages in Scotland" printed on the same, and be sealed with the seal of the said Register Office, and be signed on the outside thereof under such words with the name of such person as the said Registrar General, with the consent of the Lords Commissioners of the Treasury or any *Three* 5 or more of them, shall appoint, in his own handwriting, such name to be from time to time sent to the Secretary of the General Post Office in London and Edinburgh, and under such other regulations as the said Lords Commissioners, or any *Three* or more of them, shall think fit; and if the person so to be appointed shall subscribe or seal 10 any letter or packet whatever, except such only concerning which he shall receive the special direction of his superior officer, or which he shall himself know to relate exclusively to the execution of this Act; or if the person so to be appointed, or any other person, shall send or cause to be sent under any such cover any letter, paper or writing, or 15 any enclosure other than shall relate exclusively to the execution of this Act, every person so offending shall forfeit and pay the sum of *One hundred Pounds*, and be dismissed from his office; one *moiety* of such penalty to be paid to the use of His Majesty, His heirs and successors, and the other *moiety* to the use of the person who shall inform 20 or sue for the same, to be sued for or recovered in any competent Court.

43.
Registration of
Baptisms, &c.,
not to be in-
terfered with.

Provided always, and be it Enacted, That nothing herein contained shall affect the Registration of Baptisms or Burials as now by law established, or the right of any Kirk Session or their Clerk to receive 25 the fees now usually paid for the Registration of any Baptism, Burial or Proclamation of Banns.

44.
Registrar
General to
furnish notices
of acts required
to be done
under this Act
to Superin-
tendent
Registrar, for
publication on
Church-doors.

And be it Enacted, That the said Registrar General shall, within calendar Months after his appointment to such office, furnish 30 to the respective Superintendent Registrars of the several districts into which Scotland shall be divided, printed notices of the Acts required to be done under this Act, which the said Superintendent Registrar shall, as soon as conveniently may be after the receipt thereof, cause to be fixed or placed on the outside of the doors of the several churches and places of worship, or other public and conspicuous buildings or 35 places within their respective districts, and which said notices shall specify the several acts required to be done by persons who may be desirous of celebrating Marriage, or of registering the Birth of any child, or the Death of any person, under the provisions of this Act.

SCHEDULES TO WHICH THIS ACT REFERS.

SCHEDULE (A.)

1837 :—BIRTHS in the DISTRICT of in the COUNTY of EDINBURGH.

No.	When Born.	Name, if any.	Sex.	Name and Surname of Father.	Name and Maiden Surname of Mother.	Rank or Profession of Father.	Signature, Description, and Residence of Informant.	When registered.	Signature of Registrar.	Baptismal Name, if added after Registration of Birth.
	7 January	John	Boy	William Green	Rebecca Green, formerly Wilson.	Carpenter	William Green, Father, Carpenter, 17, North-street, Edinburgh.	9 January	John Maxwell, Registrar.	

(The Words and Figures in *Italics* in this Schedule to be filled up as the case may be.)

SCHEDULE (B.)

1837 :—DEATHS in the DISTRICT of in the COUNTY of EDINBURGH.

No.	When Died.	Name and Surname.	Sex.	Age.	Rank of Profession.	Cause of Death.	Signature, Description, and Residence of Informant.	When registered.	Signature of Registrar.
17	4 February	William Green	Male	43	Carpenter		Rebecca Green, 17, North-street, Edinburgh.	5 February	John Maxwell, Registrar.

(The Words and Figures in *Italics* in this Schedule to be filled in as the case may be.)

SCHEDULE (C.)

MARRIAGES REGISTERED in the DISTRICT OF EDINBURGH.

No.	When Married, and by whom.	Name and Surname.	Condition.	Abode.	Fathers' Name.	Names of Witnesses.
3	4 March 1838. Rev. J. Wilson.	James Gordon. Anne Frazer.	Bachelor. Widow.	Portobello. Dunbar.	W ^m Gordon. Delven Hay.	A. Forbes. H Roberts.

Entered by me this 5th day of March 1838.

J. Grant, Sup. Reg.

SCHEDULE (D.)

I, *James Campbell*, Minister of the Parish of *Saint Cuthberts*, in the County of *Edinburgh*, do hereby certify, that I have this day baptized, by the name of *John*, a Male Child produced to me by *William Green*, as the Son of *William Green* and *Rebecca Green*, and declared by the said *William Green* to have been born at *Newington*, in the County of *Edinburgh*, on the *Seventh* day of *January* One thousand eight hundred and *Thirty-seven*. Witness my hand this *First* day of *December* One thousand eight hundred and *Thirty-eight*.

James Campbell, Minister.

SCHEDULE (E.)

I, *John Maxwell*, Registrar of Births and Deaths, in the District of *Edinburgh*, do hereby certify, that the Death of *William Green* was duly registered by me on the *Seventh* day of *March* One thousand eight hundred and *Thirty-eight*. Witness my hand this *Eighth* day of *March* One thousand eight hundred and *Thirty-eight*.

John Maxwell, Registrar.

SCHEDULE (F.)

I, *William Thomson*, Procurator Fiscal of the County of *Edinburgh*, do hereby authorize the Burial of the body now shown to me as the body of *John Davidson*. Witness my hand this *Eighth* day of *March* One thousand eight hundred and *Thirty-eight*.

William Thomson, Procurator-fiscal.

SCHEDULE (G.)

I, *John Maxwell*, Registrar of Births and Deaths, in the District of *Edinburgh*, do hereby certify, that this is a true Copy of the Registrar's Book of Births [or Deaths] within the said District from the entry of the Birth [or Death] of *William Green*, No. 1, to the entry of the Birth [or Death] of *William Jardine*, No. 34. Witness my hand this *Seventh* day of *March* One thousand eight hundred and *Thirty-eight*.

John Maxwell, Registrar.

[The words and Figures in *Italics* in the above Schedule to be filled in as the case may be.]

Registration of Births, &c.

(Scotland.)

A

B I L L

For Registering Births, Deaths and Marriages
in Scotland.

(Prepared and brought in by
Mr. Robert Stewart and the Lord Advocate.)

Ordered, by The House of Commons, to be Printed,
26 April 1837.

26 April 1837.—7 WILL. IV.



A

B I L L

To explain and amend the Laws concerning Clandestine Marriages in Scotland, and to provide for the Registration of Marriages there.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WH **H**EREBY it is expedient to alter and amend the Laws concerning Clandestine Marriages in Scotland, and to provide for the Registration of Marriages in that part of the United Kingdom; **BE it Enacted**, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the *First day of April One thousand eight hundred and Thirty-eight*, it shall be lawful for all Ministers, Clergymen or Priests in Scotland, to celebrate Marriages in that Country, either after due Proclamation of Banns, or after such Registration of Notice of an intention to marry as is hereinafter prescribed, and upon production to such Minister, Clergyman or Priest, either of a Certificate of due Proclamation of Banns, or of such Registration, or of a License of a Superintendent Registrar, as hereinafter prescribed.

And be it Enacted, That the Society of Friends, commonly called Quakers, and the persons professing the Jewish religion, may continue to contract and solemnize Marriage according to the usages of the said Society, and of the said persons respectively; and every such Marriage is hereby declared and confirmed good in law, provided that the parties to such Marriage be both of the said Society, or both persons professing the Jewish religion respectively: Provided also, That notice to the Superintendent Registrar of intention to marry shall have been given, and his Certificate shall have issued, or license been granted in manner hereinafter provided.

Preamble.

1.
Ministers,
Clergymen or
Priests may
celebrate
Marriages.

2.
Regarding
Quakers and
Jews.

3.
Superinten-
dent Regis-
trars under
the Registra-
tion Act to be
the Registrars
under this
Act.

And be it Enacted, That the Superintendent Registrars appointed by an Act passed in the present Session of Parliament, intituled, "An Act for Registering the Births, Deaths, and Marriages in Scotland," shall be the Registrars for the registration of the notices of intention to marry hereinafter described, and otherwise for the purposes of this Act.

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4.
Books to be
furnished to
Parish Clerks
and Superin-
tendent Re-
gistrars.

And be it Enacted, That the Registrar-General appointed by the said recited Act, shall from time to time furnish to each Session Clerk of every parish in Scotland, a Register Book, printed in the form of the Schedules (A.) and (B.) hereunto annexed, wherein shall be registered by such Session Clerks the particulars hereinafter required to be inserted in regard to Marriages, intended to be celebrated after proclamation of banns; and the said Registrar-General shall in like manner furnish to each Superintendent Registrar of every district to be established under the provisions of the said recited Act, a Register Book to be called "The Marriage Notice Book," printed in the form of the Schedules (C.) and (D.) to this Act annexed, to be kept by such Superintendent Registrar for the Registration of Notices of intention to marry, to be given in manner hereinafter directed by parties desirous of being married, after notice of intention to marry without publication of Banns, and the expense of such Books shall be defrayed in manner by the said Act provided; and such Books shall be open at all reasonable times without fee to all persons desirous of inspecting the same; and the Session Clerk shall, over and above any fees which he is now by law entitled to receive upon any Marriage, or the Proclamation of Banns for any Marriage, take for each entry to be made by him under the provisions of this Act a fee of *One Shilling*, to be accounted for by him to the Superintendent Registrar of the district in which his parish is situated, and the Superintendent Registrar shall take for every entry (of Notice of Marriage to be made by him) in the Marriage Notice Book a fee of *Five Shillings*.

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5.
Parties
marrying
after Procla-
mation of
Banns to pro-
duce Certifi-
cate to
Minister.

And be it Enacted, That one or other of the parties desirous of being married after Proclamation of Banns shall, before being married, appear before the Session Clerk of the parish in which one or other of such parties is then resident, and in which such Banns are to be proclaimed, without prejudice to the Proclamation of such Banns as heretofore in the parishes in which both the parties reside, if residing in different parishes, and shall declare to such Session Clerk, so as to enable him to register the same in the said book to be kept by him, all the particulars required to be inserted in the form prescribed in the said Schedule (A.); videlicet, the name and surname, and profession or condition, and age and place of residence of each party intending Marriage, and the time of their residence in such place or places, and also the place where and the district in which such

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such Marriage is to be celebrated; and the Session Clerk shall thereupon insert in the said Schedule the particulars so furnished, with the date on which the said Schedule is filled up; and such Schedule shall then and there be signed by the party applying and by the said Clerk; and
 5 after such Banns shall have been duly proclaimed, such Session Clerk shall fill up, and date and sign the Certificate subjoined to the said Schedule marked (A.); and shall thereafter, upon application of the party, fill up with the particulars required to be inserted in the said Schedule the Certificate contained in the Schedule marked (B.) here-
 10 unto annexed, printed on the same leaf of the Register Book on which the said Schedule (A.), directed to be filled up as aforesaid, is printed, and shall date and subscribe the same; and the Clerk shall thereupon detach such Certificate marked (B.) from the Schedule (A.), and shall deliver the portion so detached to the party applying and signing as
 15 aforesaid.

And be it Enacted, That from and after the said *First day of April*, one of the parties, desirous of being married, after registration of notice of intention to marry in Scotland, and without proclamation of Banns, shall appear before the Superintendent Registrar
 20 of the district within which the parties, or either of them, shall have dwelt for not less than *Twenty-one* Days then next preceding, and shall give Notice, by declaring to such Superintendent Registrar the particulars required to be inserted in the form prescribed in the Schedule marked (C.) hereunto annexed, or to the like effect; videlicet, the name
 25 and surname, and profession or condition, and age and place of residence of each of the parties intending Marriage, and the time of their residence, being not less than *Twenty-one* Days in such place or places, and the district in which such Marriage is to be celebrated; or, if the parties dwell in the districts of different Superintendent
 30 Registrars, shall give the like notice to the Superintendent Registrar of each district; provided, that if the party shall have dwelt in the place stated in the Notice during more than *One Month*, it may be stated therein that he or she has dwelt there a month and upwards; and the Superintendent Registrar shall thereupon insert in the said
 35 Schedule the particulars so declared, with the date on which the said Schedule is filled up; and such Schedule shall then and there be signed by the party applying, and by the said Superintendent Registrar; and the said Superintendent Registrar shall also fill up, with the particulars required to be inserted in the said Schedule, the certificate contained
 40 in the Schedule marked (D.) hereunto annexed, and which shall be printed on the same leaf of the Register Book on which the said Schedule (C.) is printed, and shall date and subscribe the same; and the Superintendent Registrar shall thereupon detach such certificate marked (D.) from the Schedule (C.), and shall deliver the part so detached to the party applying and signing as aforesaid; each such

6.
 Notice of
 Marriages
 how to be
 given.

certificate shall have printed thereon a Notice that the parties therein mentioned shall not be thereby authorized to intermarry until the expiration of *Twenty-one* Days from the date of such certificate.

7.
Marriage by
License.

And be it Enacted, That if any party shall be desirous of being married by License, entitling such parties to be married within a shorter period than *Twenty-one* Days after registration of notice of intention to marry in manner hereinbefore prescribed, one of the parties desirous of being so married shall appear before the Superintendent Registrar of the district wherein such Marriage is intended to be celebrated, and shall declare to the Superintendent Registrar the particulars required to be inserted in the said License, that is to say, the name and surname, profession and condition, age and place of residence of each of the said parties so intending Marriage, and that there is no legal hinderance to the said Marriage, and the party shall subscribe such declaration, and it shall then be lawful for such Superintendent Registrar to grant such License in the form contained in the Schedule (E.) hereunto annexed ; and the said Superintendent Registrar shall file and preserve among the Records of his Office the declaration of the party so subscribed, and for any such License the party receiving the same shall pay a fee of *Five Pounds*.

8.
Superintendent
Registrar
to find
Security.

Provided always, and be it Enacted, That any Superintendent Registrar, before he shall grant any such License as aforesaid, shall have given Security by his bond in the sum of *One hundred Pounds* to the Registrar-General for the due and faithful execution of his office : Provided also, That nothing herein contained shall authorize any Superintendent Registrar to grant any License for Marriage to be celebrated beyond his own district.

9.
Marriage of
Parties.

And be it Enacted, That parties desirous of being married after proclamation of banns shall be entitled to be so married, upon production to the Minister, Clergyman or Priest by whom such Marriage is intended to be celebrated, of the certificate described in the said Schedule (B.), filled up and signed by the Session Clerk in the manner hereinbefore prescribed ; and after the expiration of *Twenty-one* Days from the date of the registration of intention to marry as hereinbefore prescribed, but not sooner, parties desirous of being married, upon registration of notice to marry without Proclamation of Banns, shall be entitled to be so married upon production to the Minister, Clergyman or Priest by whom such Marriage is intended to be celebrated, of the Superintendent Registrar's certificate described in the said Schedule (D.), filled up and signed as hereinbefore described ; and in all such cases it shall be lawful for Ministers, Clergymen and Priests to celebrate such Marriages ; and parties desirous of being married by License shall be entitled to be so married, upon production to the Minister, Clergyman or Priest by whom such Marriage is intended

(5)

to be celebrated, of the license described in the said Schedule (E.) obtained from the Superintendent Registrar of the District as aforesaid.

And be it Enacted, That whenever a Marriage shall not take place within *Three* Months after the date of Registration, or within *Three* Months of the date of such License as aforesaid, such Registration, and any certificate or license which shall have been granted, and every proceeding thereupon, shall be utterly void; and no person shall proceed to celebrate the Marriage, nor shall the Superintendent Registrar register the same, until new Registration of Notice shall have taken place, and a new certificate or license, if the Marriage is by license, shall have been issued as aforesaid.

10.

New Registration required after *Three* Months.

And be it Enacted, That upon any Marriage having been celebrated as aforesaid, the Minister, Clergyman or Priest celebrating the same shall fill up in the form appended to the Certificate or license respectively produced to him, a Certificate purporting that such Marriage has, at the desire of the parties and of the date of such Certificate of Marriage, been celebrated by him before *Two* witnesses whom he shall therein name and describe, and such Certificate of Marriage shall be signed by the parties married and by the Minister, Clergyman or Priest celebrating the Marriage, and by such *Two* witnesses, and such Minister, Clergyman or Priest, shall forthwith transmit such Certificate of Marriage by post to the Superintendent Registrar of the district in which the Marriage was celebrated, for Registration in manner by the said recited Act directed.

11.

After Marriage Minister, &c., to transmit Certificate to Superintendent Registrar for Registration.

And be it Enacted, That any Person who, after the said *First day of April*, shall celebrate any Marriage in Scotland, except after due proclamation of banns, or upon production to him by the parties of a Certificate of Registration of Notice of intention to marry, or license issued in terms of this and the said recited Act, shall be liable to a fine of not less than *One hundred Pounds*, and to imprisonment for a period of not less than *Six* calendar Months.

12.

Persons unduly celebrating Marriages guilty of Felony.

And be it Enacted, That any parties in Scotland marrying after the said *First day of April*, otherwise than in terms of and in the manner prescribed by this Act, shall, upon conviction thereof, be liable in a Penalty not exceeding *One hundred Pounds*, or be subject to imprisonment for a period not exceeding *Twelve* calendar Months: Provided always, That nothing herein contained shall affect or be construed to affect the validity of any Marriage celebrated contrary to the provisions of this Act, provided such Marriage shall be contracted according to the law of Scotland.

13.

Parties marrying otherwise than in terms of this Act, liable in a Penalty of 100*l*.

And be it Enacted, That it shall be lawful for the Superintendent Registrar issuing a certificate of registration or license, and for the per-

14.

Registrars and persons celebrating Marriage may ask

Particulars
required to be
registered.

son celebrating any Marriage under the provisions of this Act, to ask of the parties intending Marriage the several particulars required to be registered touching such Marriage.

15.

Persons
making False
Declarations
guilty of
Perjury.

And be it Enacted, That every person who shall knowingly and wilfully make any false Declaration, or sign any false Notice or Certificate required by this Act, for the purpose of procuring any Marriage, shall suffer the punishment and penalties of Perjury.

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16.

Registrars
unduly
issuing Cer-
tificates guilty
of Felony.

And be it Enacted, That every Superintendent Registrar who shall knowingly and wilfully issue any Certificate or License for Marriage after the expiration of *Three* calendar Months from the date of the notice entered by him as aforesaid, or otherwise than is prescribed by this Act, shall be liable to be imprisoned for a period not exceeding *Two* Years, and shall be dismissed from his office, and shall be incapable of serving His Majesty in any office whatsoever.

10

17.

Fees how to
be accounted
for.

And be it Enacted, That all the Fees, Dues or Emoluments which shall be received by any Session Clerk, or any Superintendent Registrar under this Act, shall be by him accounted for and paid over to the Registrar-General, to be applied by him as by the said recited Act provided.

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18.

Limitation of
Prosecutions.

And be it Enacted, That every prosecution under this Act shall be commenced within the space of *Three* Years after the offence committed, but not thereafter; and all prosecutions shall be conducted, and all penalties shall be recovered and applied, and fees levied in the same manner as is directed in the said recited Act.

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19.

Laws relative
to Clandestine
Marriages in-
consistent
with this Act,
repealed.

And be it Enacted, That all Acts relative to Clandestine and Unlawful and Irregular Marriages, in so far as such Acts or any of the provisions thereof are inconsistent or at variance with this Act, shall be and the same are hereby repealed.

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20.

Registration
Act applied to
this Act.

And be it Enacted, That this Act shall be taken to be a part of the said recited Act for registering Births, Deaths and Marriages, as fully as if incorporated therewith; and all the provisions and penalties of the said Act relating to any Superintendent Registrar, or any Registrar or Deputy Registrar, or any Register of Marriages, or any certified copies of such Registers, shall be taken to extend to the Superintendent Registrar, Session Clerk, Registering Officer and Secretary, and Register of Marriages to be kept under this Act, and to the certified copies thereof, so far as the same are applicable thereto.

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21.

Act to extend
only to Scot-
land.

And be it Enacted, That this Act shall extend only to Scotland.

SCHEDULES referred to in the foregoing ACT.

SCHEDULE (A.)

SCHEDULE (B.)

No. 30.

NOTICE to SESSION CLERK of the PARISH *Dirlton*.

No. 30

CERTIFICATE OF SESSION CLERK.

I, *William Murray*, hereby give you Notice, that there is purpose of Marriage between me and the other party herein-below named and described, to be celebrated after publication of Banns, (that is to say) between:

NAME.	Rank or Profession.	Condition.	Age.	Dwelling Place.	Parish.	Place where Marriage will be celebrated.
<i>William Murray</i>	<i>Carpenter</i>	<i>Single</i>	<i>40</i>	<i>Gulone</i>	<i>Dirlton</i>	<i>{ North Berwick.</i>
<i>Jean Smith</i>	-	<i>Widow</i>	<i>25</i>	<i>Abbey</i>	<i>{ North Berwick.</i>	

and I hereby require you to provide that the said Banns are duly published in the parish church of *Dirlton*, between the said parties accordingly.

Witness my hand, this *First day of February One thousand eight hundred and Thirty-eight*.

Entered by me,
Adam Dickson, Session Clerk.

Pursuant to the above Notice the Banns of Marriage between the said *William Murray* and *Jean Smith* were duly published in the parish church of *Dirlton*, on [stating the date of proclamation of Banns.]

Adam Dickson, Session Clerk.

Dirlton, this *Twenty-second day of February One thousand eight hundred and Thirty-eight*.

THESE are to certify, that in pursuance of Notice duly signed by one of the parties, I have caused the Banns of Marriage between *William Murray*, of *Gulone*, *Carpenter*, and *Jean Smith*, of *North Berwick*, *Widow*, to be duly proclaimed in the parish church of *Dirlton* on the

Witness my hand this *Twenty-seventh day of February One thousand eight hundred and Thirty-eight*.

Adam Dickson,
Session Clerk.

I, the Reverend *Peter Black*, minister of the parish of *North Berwick*, hereby certify that the foregoing Certificate having been delivered to me by *William Murray* and *Jean Smith*, the parties herein named, by authority thereof, and at their desire, the said *William Murray* and *Jean Smith* were this day duly married by me, in presence of *Henry Hunter* and *Thomas Walker*, both of this place; in token whereof the said parties and witnesses have hereunto set their hands this *Twenty-eighth day of February One thousand eight hundred and Thirty-eight*.

(signed) *William Murray*, } Parties.
Jean Smith, }
Peter Black, Minister.

Henry Hunter, Witness.
Thomas Walker, Witness.

SCHEDULE (C.)

No. 25.

NOTICE OF MARRIAGE TO THE REGISTRAR OF THE DISTRICT OF
Edinburgh IN THE COUNTY OF Edinburgh.

I, *James Gordon*, hereby give you Notice, that there is purpose of Marriage between me and the other party herein-below named and described, and that the said Marriage will be celebrated within *Three* Months from the date hereof.

NAME.	Condition.	Rank or Profession.	Age.	Dwelling Place.	Length of Residence in District.	Place where Marriage will be celebrated.	District and County wherein other party resides, where they dwell in different Districts.
<i>James Gordon</i>	<i>Bachelor</i>	<i>Mason</i>	<i>30</i>	<i>Portobello</i>	<i>More than One Month</i>	<i>Edinburgh</i>	
<i>Anne Frazer</i>	<i>Widow</i>		<i>22</i>	<i>Dunbar</i>	<i>Twenty Days</i>		<i>Haddington.</i>

And I hereby declare, that there is no lawful objection or impediment to such Marriage.

Witness my hand this *Second day of January One thousand eight hundred and Thirty-eight.*

(signed) *James Gordon*

Subscribed in my presence, and the foregoing particulars entered by me,

John Grant, Registrar.

SCHEDULE (D.)

REGISTRAR'S CERTIFICATE.

THESE are to certify, that *James Gordon*, of *Portobello*, compared before me this day, and gave notice of purpose of Marriage between the said *James Gordon* and *Anne Frazer*, of *Dunbar*, to be celebrated within *Three* Months from the date hereof; and such Notice having been duly subscribed by the said *James Gordon*, these are to authorize the celebration of Marriage between the parties aforesaid, on any day between the *Twenty-third day of January* and the *Second day of April* next.

Witness my hand, this *Second day of January One thousand eight hundred and Thirty-eight.*

Signature of party applying, *John Grant, Registrar of Edinburgh.*
James Gordon.

Note.—The parties mentioned in the above Certificate are not authorized to intermarry until the expiration of *Twenty-one Days* from the *stid* *Second day of January One thousand eight hundred and Thirty-eight.*

I, the Reverend *John Wilson*, Minister of the Burgher Associate Congregation of *Edinburgh*, hereby certify, that the foregoing Certificate having been delivered to me by *James Gordon* and *Anne Frazer*, the parties therein named, by authority thereof and at their desire, the said *James Gordon* and *Anne Frazer* were this day duly married by me, in presence of *Adam Forbes, Baker, of Twenty-one, High-street,* and *Henry Roberts, Tailor, of One hundred and five, Canongate*; and in token thereof, the said parties and witnesses have hereunto set their hands this *Twenty-fifth day of January One thousand eight hundred and Thirty-eight.*

Adam Forbes, Witness. (signed) *James Gordon,* } Parties.
Henry Roberts, Witness. *Anne Frazer,* }

John Wilson, Minister.

SCHEDULE (E.)

LICENSE OF MARRIAGE.

A. B., Superintendent Registrar of _____ to C. D., of _____
and E. F., of _____

WHEREAS it is your intention to intermarry with each other, under the provisions of an Act made in the _____ year of the reign of His Majesty King WILLIAM the Fourth, intituled [*here insert the title of this Act*], and are desirous that the same may be speedily celebrated; and whereas you, C. D. [*or, you, E. F.*], have made and subscribed a Declaration under your hand, that you believe there is no impediment of kindred or alliance, or other lawful hindrance, to the said Marriage; and that you C. D. [*or, E. F.*] have [*or, has*] had your [*or, his, or, her*] usual place of abode for the space of *Fifteen Days* last past within the district of [_____] I do hereby grant unto you full license, according to the authority in that behalf given to me by the said Act, to proceed to celebrate such Marriage within the district of [*here insert the name of the district in which the Marriage is to be solemnized*]; such Marriage to be thereafter registered according to law, provided that the said Marriage be publicly celebrated in the presence of a Minister, Clergyman or Priest, and of *Two* witnesses, within *Three* calendar Months from the [*here insert the date of the entry in the Notice Book of the Superintendent Registrar.*] Given under my hand this _____ day of _____ One thousand eight hundred and _____

(signed) A. B., Superintendent Registrar.

CERTIFICATE TO FOLLOW LICENSE.

I, the Reverend _____ Minister of the parish of _____ do hereby certify, That the foregoing License having been delivered to me by _____ and _____ [*stating the names of the parties married*], the parties therein named, by authority thereof and at their desire, the said _____ and _____ were this day duly married by me, in presence of G. H. and I. K. [*names and descriptions of the witnesses*]. In witness whereof, the said parties and witnesses have hereunto set their hands, this _____ day of _____

G. H., Witness.
I. K., Witness.

(signed) C. D. } Parties.
E. F. }

L. M., Minister.

Clandestine Marriages (Scotland).

A

B I L L

To explain and amend the Laws concerning
Clandestine Marriages in Scotland, and
to provide for the Registration of Mar-
riages there.

(Prepared and brought in by
Mr. Robert Stewart and the Lord Advocate.)

*Ordered, by The House of Commons, to be Printed,
26 April 1837.*



A

B I L L

For removing Doubts respecting the Validity of certain Marriages among Persons professing the Jewish Religion.

WH HEREAS an Act was passed in the sixth year of the Preamble.
reign of His present Majesty King WILLIAM the Fourth,
intituled, “ An Act to render certain Marriages valid, and to alter
the Law with respect to certain voidable Marriages :”

5 And whereas it was by the said Act enacted, That all Marriages
which should thereafter be celebrated between persons within the
prohibited degrees of consanguinity or affinity should be absolutely
null and void to all intents and purposes whatsoever :

And whereas the Marriages of persons professing the Jewish
10 Religion have been excepted by divers Acts of Parliament passed
for the regulation of Marriage from the operation of the same Acts,
and have been always contracted and solemnized according to the
usages of persons of the said Religion, and the said usages prohibit
Marriages by reason of consanguinity or affinity so far only as the
15 same are prohibited by the law of Moses as interpreted among the
same persons :

And whereas by an Act passed in the last Session of Parliament,
intituled, “ An Act for Marriages in *England*,” it was enacted,
That the Society of Friends, commonly called Quakers, and also
20 persons professing the Jewish Religion, might continue to contract
and solemnize Marriages according to the usages of the said Society,
and of the said persons respectively, and every such Marriage was
thereby declared and confirmed good in law, provided that the
parties to such Marriage were both of the said Society, or both
25 persons professing the Jewish Religion respectively : Provided also,
That notice to the Registrar should have been given, and the
Registrar’s Certificate should have issued in manner thereinafter
provided :

And whereas doubts have arisen whether the Marriages of Jews are or are not affected by the provisions of the first hereinbefore recited Act :

And whereas it is desirable that such doubts should be removed ;

1.

Marriages already celebrated not to be impeached on account of consanguinity except where they are within the degrees of consanguinity prohibited by the Mosaic Law.

BE it therefore Declared and Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT no Marriage already or hereafter to be celebrated between any two persons professing the Jewish Religion shall be impeached or rendered void or voidable by reason of consanguinity or affinity, unless the same be within the degrees of consanguinity or affinity prohibited by the Mosaic Law, according to its interpretation as received by persons of the said Religion ; the first hereinbefore recited Act, or any other Act, rule or custom of law whatsoever to the contrary thereof in anywise notwithstanding. 5 10

Jewish Marriages.

A

B I L L

For removing Doubts respecting the Validity of certain Marriages among Persons professing the Jewish Religion.

(Prepared and brought in by
Mr. Powell Buxton and Dr. Lushington.)

*Ordered, by The House of Commons, to be Printed,
6 June 1837.*

A

B I L L

To provide for the Appointment and Election of Magistrates and Councillors in certain Burghs of Regality and Barony, and unincorporated Towns in Scotland.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

- W** H E R E A S there are various Burghs of Regality and Burghs of Barony, and considerable unincorporated Towns in Scotland, which have no Municipal Government, or no adequate efficient Municipal Government, and it is expedient that a remedy should be provided in such cases; **B** E *it therefore Enacted*, by The K I N G 's most Excellent M A J E S T Y, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, **T** H A T from and after the *first Tuesday in November* next, there shall be in each of the several Burghs or Towns contained in the Schedules marked (A.), (B.) and (C.) respectively and hereunto annexed, which shall adopt the provisions of this Act in manner hereinafter mentioned, the number and description of Magistrates and Councillors annexed to the name of each such Burgh or Town in the said several Schedules.
- P** r o v i d e d always, and be it Enacted, That for the purposes of this Act, the whole of the Burgh or Town of Galashiels, as the same may be described and bounded under the authority of this Act, shall be deemed and taken to be within the County of Selkirk, and in like manner the whole of the Burgh or Town of Coupar-Angus shall be deemed and taken to be within the County of Perth, and it shall be competent and lawful for the Sheriffs and Sheriff Clerks of the said two Counties respectively within which the said Burghs or Towns of Galashiels and Coupar-Angus respectively are hereby declared to be situated, to exercise the jurisdictions and powers, and to perform the duties by this Act conferred and imposed upon Sheriffs and Sheriff Clerks.

Preamble.

1.
Number of
Councillors
and Magis-
trates in each
Burgh.

2.
Galashiels to
be in Selkirk-
shire, and
Coupar-Angus
in Perthshire.

140.

A

And

3.
Description of
Boundaries to
be fixed by
Commis-
sioners.

And be it Enacted, That within *Three Months* after the *passing of this Act*, the boundaries of every such Burgh or Town shall be ascertained and fixed by Commissioners to be named and appointed by His Majesty for that purpose; and such Commissioners shall have regard to its being the purport and meaning of this Act, that there be comprehended within the Boundaries of every such Burgh or Town the whole of the houses and buildings contiguous or adjacent thereto, or which can be held to form a part thereof, although such houses and buildings or any part thereof may be known by a different name from the name of such Burgh or Town, together with such additional space as such Commissioners shall think necessary, with a view to the future probable extension thereof; and such Commissioners shall, upon such Boundaries being so ascertained and fixed, report the same to His Majesty's Privy Council, who shall cause such Report to be published by Royal Proclamation in the Gazette, and such Boundaries being so fixed, reported and published, shall be held and taken to be a part of this Act, in the same manner and to the same effect as if the same were particularly set forth and enacted herein.

4.
Act not to
apply to Poli-
cies or Plea-
sure Grounds.

And be it Enacted, That none of the provisions of this Act shall apply or be deemed or taken to apply to any policy or pleasure grounds which shall have been made, planted or inclosed as such before the *passing of this Act*, notwithstanding that the same may have been comprehended within the line of the Boundary of such Burgh or Town so ascertained and fixed by such Commissioners.

5.
Councillors,
by whom to be
elected.

And be it Enacted, That the right of electing the Councillors in each of the said several Burghs and Towns which shall have adopted the provisions of this Act, shall be in all the persons residing or personally carrying on business therein, and in such persons only, not subject to any legal incapacity, who shall for a period of not less than *Twelve* calendar Months next previous to the last day of in the present, or the last day of July in any future year, be in the occupancy either as proprietor, tenant or life-renter of any house, warehouse, counting-house, shop or other building within such Burgh or Town, which either separately or jointly with any other house, counting-house, shop or other buildings within such Burgh or Town, or with any land owned and occupied by him, and also situated within such Burgh or Town, shall be of the yearly value of not less than *Five Pounds*: Provided always, That no person shall be entitled to be registered or to vote in the present or any future year, unless he shall have resided or personally carried on business for *Six* calendar Months next previous to the last day of in the present, or the last day of July in any future year, within such Burgh or Town: Provided also, That persons so resident shall be entitled to be registered, and to vote, if they are the true owners of such premises as are hereinbefore mentioned within such Burgh

Burgh or Town of the yearly value of not less than *Five Pounds*, although the premises occupied by them should be of less yearly value than *Five Pounds*, and that the husbands of such owners shall be entitled to vote either in the lifetime of their wives or after their death
 5 if then holding such property by the courtesy of Scotland: Provided also, That where any property which would enable the owner to be registered and to vote as above shall come to any person within the said period of *Six Months* by inheritance, marriage settlement, mortis
 10 causa disposition, or by appointment to any place or office, such person shall be entitled to be registered on the first occasion of making up the List of Voters as hereinafter prescribed next following such succession or acquisition: Provided further, That no person shall be entitled to be registered or to vote in the election of Councillors who shall have been in the receipt of parochial relief within *Twelve* calendar
 15 Months next previous to the last day of in the present year, or next previous to the last day of July in any succeeding year.

And be it Enacted, That the premises in respect of which any person shall be deemed entitled to be registered and to vote in the election of any Burgh or Town, shall not be required to have been
 20 the same premises for the whole *Twelve Months* of his occupancy, but may be different premises (but always of the requisite value) occupied in succession by such person: Provided always, That where such premises shall be of the yearly value of *Ten Pounds* or upwards, and shall be jointly occupied by more than One person, each of such
 25 joint occupiers shall be entitled to be registered and to vote, provided his share and interest in the same shall be of the yearly value of *Five Pounds* or upwards.

6.
Provisions as to Premises occupied in succession, and as to joint Occupants.

And be it Enacted; That every person claiming to be an Elector in any such Burgh or Town shall, within *Twenty-one Days* after the
 30 Boundaries thereof shall have been fixed, reported and published as aforesaid in the present year, give in his claim, subscribed by himself or his agent, (together with any written title or other evidence he may choose to produce along with such claim,) to the Sheriff Clerk of the county within which such Burgh or Town is situated, and, if this Act
 35 shall be adopted as hereinafter specified, shall, on or before the Twenty-first day of July in any succeeding year, give in such claim and such title or other evidence to the Town Clerk of such Burgh or Town, such claim being in the form as nearly as may be of the first part of Schedule (D.) to this Act annexed, printed copies of which forms or
 40 Schedules, with the necessary blanks therein to be filled up by the claimant, every Sheriff Clerk and Town Clerk respectively is hereby required to provide and to furnish copies of the same to all applicants upon payment of the sum of *Sixpence* only for each copy, upon which copies all the claims to be given in shall be engrossed by the said

7.
Claims of Electors, how to be made.

claimants ; and such Sheriff Clerk or Town Clerk respectively immediately on receiving such claim shall mark upon it the date when it was delivered to him, by filling the same up as nearly as may be in the form of the second part of the said Schedule (D.) to this Act annexed, and such Sheriff Clerk in this present year, within *Four* Days after the last day for receiving such claims and after consulting with the Sheriff, and such Town Clerk in every subsequent year, within *Four* Days after the last day for receiving such claims, and after consulting with the Chief Magistrate of such Burgh or Town (or in case of his absence or disability, the Senior Magistrate capable of attending), shall respectively give or cause to be given intimation of all such claims by affixing on the Church doors of the several Parishes within which such Burgh or Town or any part thereof is situated, a written or printed alphabetical list containing the names, designations and places of abode of all such claimants, together with a notice specifying the place where and the day and the hour at which such claims are to be considered, which day shall not be less than *Twenty* nor more than *Twenty-five* Days after the last day appointed for receiving such claims in the present and future years respectively ; and such notice shall also bear that any objection to such claims will be at the same time taken into consideration, provided such objections shall be lodged with the Sheriff Clerk or Town Clerk respectively, and intimated to the party objected to, by either delivering a copy of the objection to him personally or leaving the same at his dwelling-house, or transmitting it to him by post *Seven* Days previous to the day appointed for considering the same and deciding upon such claims, and all such objections shall be signed by the party objecting or his agent, and be drawn up as nearly as may be in the form of the Schedule (E.) to this Act annexed ; and printed copies of such forms or schedules shall be provided by each Sheriff Clerk and Town Clerk respectively, and shall be furnished to each person applying, upon payment of the sum of *Sixpence* for each copy, and upon these copies all the objections shall be engrossed by the objectors, and the date of lodging the same shall be marked by the Sheriff Clerk or Town Clerk thereon ; and proof of such notice of objection having been given shall be made to such Sheriff or Magistrate (and Assessor, if appointed as hereinafter mentioned) before entering upon any such objection, and no claims or objections shall be received by any Sheriff Clerk or Town Clerk after the expiration of the time hereinbefore allowed and appointed for giving in such claims or objections respectively ; and the persons claiming and the persons objecting to such claim shall have access to see such claims and objections in the Sheriff Clerk's or Town Clerk's Office respectively (as the case may be) at all seasonable hours, without payment of any fee for such inspection, and to obtain extracts or copies thereof, paying for any extract or copy of the same at the rate of *Sixpence* for every *Seventy-two* words.

And

8.

Persons registered to pay Sixpence.

And be it Enacted, That every person claiming to be registered shall at the time of lodging such claim pay a fee of *Sixpence* to the Sheriff Clerk or Town Clerk receiving such claim: Provided always, That the Magistrates and Councils of the said several Burghs or Towns shall

5 pay to such Sheriff Clerk or Town Clerk respectively such further sum as shall be adequate compensation for the trouble which such Clerks may have in performing the duties hereby imposed upon them respectively.

9.

Claims not objected to, to be first disposed of.

And be it Enacted, That upon the day and hour appointed to consider such claims and objections in this present year, the Sheriff Clerk

10 of each county within which any of the said Burghs or Towns are situated shall lay before the Sheriff or Sheriff Substitute to be appointed as hereinafter mentioned, and the Town Clerk in all succeeding years shall lay before the Chief Magistrate, or, in case of his absence or disability, the Senior Magistrate capable of attending (and Assessor, if

15 appointed as hereinafter mentioned), the several claims and objections which have been received by any of the said Clerks, together with the titles or documents which may have been lodged along with any of those claims; and the said Sheriff or Magistrate (and Assessor, if appointed) respectively shall forthwith proceed to consider those claims

20 to which no objections have been lodged, and which have been supported by production of a written title in the order as nearly as possible in which they were presented; and whenever he is satisfied that the title so produced does afford *primâ facie* evidence of the validity of the claim, he shall write upon the claim the word "Admit," and mark the same

25 with his initials, and forthwith return the claim to the Sheriff Clerk or Town Clerk (as the case may be) by whom it was presented, which Clerk shall then enter the claimant in the books or registers of qualified Voters to be kept for the said Burgh or Town, in the alphabetical order of the Voters' names, and in the form of the Schedule (F.) to this Act annexed; and the said Sheriff Clerk or Town Clerk shall sign each entry with his initials, and each page of the register with his name, and shall furnish a signed copy of such entry to each Voter, or to any person who may require it, upon payment of the sum of *Sixpence*

30 only for each such copy; and immediately after all the claims of this description which appear sufficiently established have been admitted, the Sheriff or Magistrate (and Assessor, if appointed) shall proceed to the consideration of the other claims to which no objections have been given in, but which have either not been accompanied by any

40 written title, or where the titles produced do not appear to him to afford *primâ facie* evidence in their favour, and that in the order of the dates on which they were severally presented, and shall summarily inquire into and examine the evidence by which the parties or their agents may then be prepared to support them by the examination of written documents, witnesses, or oath or declaration of parties, or

140. A 3 otherwise,

otherwise, as the case may require or admit of; and when the said Sheriff or Magistrate (and Assessor, if appointed) is satisfied that any claimant has made out a *prima facie* case in support of his claim, he shall write upon it the word "Admit," and mark it with his initials, and return it to the Sheriff Clerk or the several Town Clerks as herein-
 5 before provided, who shall thereupon enter the claimant in the register in the same manner and to the same effect as is above provided as to admitted claims of the first description; but when the Sheriff or Magistrate (and Assessor, if appointed) is not satisfied that there is a *prima facie* evidence in support of any claim, he shall write upon it the word
 10 "Reject," and mark it with his initials as above, and return the same to the said Clerks, to be kept by them till applied for by the parties presenting the same, or their agents, to whom such application shall be forthwith delivered.

10.
 Parties to be
 heard on ob-
 jections to
 Claims.

And be it Enacted, That when the Sheriff or Magistrate (and As-
 15 sessor, if appointed) has in manner aforesaid gone through and disposed of all the claims to which no objections are offered, he shall proceed to consider and hear the parties or their agents upon the several claims to which objections are lodged, and that in the order of the dates of
 20 presenting the said claims, and shall hear and receive all competent evidence which either party may produce in support of his claim or objection respectively; and where he is satisfied that the claim is well founded, he shall write upon it the word "Admit," authenticated as
 25 above, and return it to the Clerk for registration, as in the other cases of admission already provided for; and where he is satisfied that it is not well founded, he shall mark it with the word "Reject," and deal
 30 with it in other respects as with the rejected claims herein already provided for: Provided always, That in all cases where no party shall appear to support a claim to which objections have been lodged, it shall be rejected, upon the Sheriff or Magistrate (and Assessor, if
 35 appointed) being satisfied that a *prima facie* case has been made out in support of the objection; and where no party shall appear to maintain his objection, the claim to which it applies shall be dealt with as if no objection had been lodged against it, and shall be admitted, if the Sheriff or Magistrate (and Assessor, if appointed) is satisfied that a
 40 *prima facie* case has been made out in support of it.

11.
 No written
 Pleadings to
 be allowed in
 support of
 Claims or Ob-
 jections.

And be it Enacted, That no written pleadings shall in any case be allowed in support of claims or objections; but when the Sheriff or
 40 Magistrate (and Assessor, if appointed) shall reject any claim to which no objection has been offered, and when he shall hear parties upon any claim to which any objection has been offered, he shall make a note of the statement of fact and of the pleas founded on, and of the names of the witnesses, and shall affix his signature to the deeds, writings and other documents produced by the parties in support of such claim or
 objection;

objection; and it shall not be competent to support any appeal upon any ground of fact or of law not set forth in such note of the Sheriff or Magistrate (and Assessor, if appointed), or to produce any witnesses not named in the said note, or any deeds, writings or other documents to which the signature of the said Sheriff or Magistrate or Assessor is not affixed.

And be it Enacted, That the said Sheriff shall, if he find it necessary, appoint, and he is hereby authorized and empowered to appoint a Substitute or Substitutes at his discretion, and without observing the forms necessary in the appointment of ordinary Substitutes receiving salaries, to officiate and preside at the decision of all claims under this Act: Provided also, That the Chief Magistrate, or in case of his absence or disability the Senior Magistrate capable of attending, shall, if he consider it necessary, or if required by any *Three* persons claiming or objecting as aforesaid, previous to the day appointed for the consideration of such claims and objections, make choice of and appoint a person of the profession of the law to be an Assistant or Assessor to him, and to officiate and preside at the decision thereof and at all elections to take place under this Act, such Assessor being always an Advocate or Writer to the Signet, or a Solicitor of Supreme Courts, or a Procurator in the Inferior Courts, of not less than *Three Years'* standing respectively.

12.
Assessor to
be appointed.

And be it Enacted, That the judgments of the Sheriff or Magistrate or Assessor granting or refusing registration shall so long as they remain unaltered be conclusive of the rights of parties claiming or objecting as aforesaid; but if either party shall be dissatisfied with the decision of the Sheriff or his Substitute, or Magistrate or Assessor admitting or rejecting any claimant for the right of being an Elector in any such Burgh or Town, it shall be competent to such party within *Five Days* of the date of the decision, but not thereafter, to appeal to the Court of Review appointed by an Act passed in the second and third years of the reign of His present Majesty, intituled, "An Act to amend the Representation of the People in Scotland," for deciding upon appeals as to the registration of voters for Members of Parliament for the district within which such Burgh or Town may be situate; the appellant always giving notice within the time above specified to the Sheriff Clerk or the Town Clerk of such Burgh or Town and to the opposite party of such appeal, the notice to the said party being either delivered personally, left at his dwelling-place or transmitted through the Post-office, and producing to the Court of Appeal evidence of such notice before such Appeal shall be heard; and it shall be competent for such Court of Appeal, if it shall affirm the Judgment appealed from, to find expenses due by the Appellant, and to decern for the same; and upon production of the Judgment of such Court or an extract thereof to the Sheriff Clerk or Town Clerk (as the case may be), keeper of

13.
Appeal to
the Court of
Review under
recited Act.

the list or roll of Electors of such Burgh or Town, such Sheriff Clerk or Town Clerk shall forthwith, where necessary, alter and correct such list or roll in accordance with the judgment of such Court; and the Sheriffs acting in such Courts of Appeal shall always proceed to the consideration of Appeals under this Act immediately after they have disposed of all the Appeals under the said recited Act, and shall be entitled to add the periods of time during which they may be exclusively occupied with the said Appeals under this Act to the periods occupied with the said other Appeals, and to make the same charges for the time so occupied in their accounts in Exchequer as is by the said recited Act provided as to such other Appeals.

14.
Lists of Elec-
tors to be
made up.

And be it Enacted, That the Sheriff Clerks of the Counties in which such Burghs or Towns are situated shall, on or before the day of _____ in the present year, and the Town Clerks of such Burghs or Towns as have adopted the provisions of this Act shall, on or before the *Sixteenth day of September* in all future years, make up and complete a list or roll of persons entitled to vote in the election of the Council of such Burgh or Town, who shall have been admitted as Electors by the Sheriff or by the Chief or Senior Magistrate in such Burghs or Towns respectively in manner hereinbefore directed.

15.
Majority of
qualified Elec-
tors may re-
quire Sheriff
to declare the
Act adopted.

And be it Enacted, That if after the boundaries of any Burgh or Town shall have been fixed, reported and published as aforesaid, and the list or roll of Electors qualified as by this Act required shall have been made up in manner hereinbefore directed, a majority of such Electors shall by a written requisition, signed by them and addressed to the Sheriff, in the form of the Schedule (G.) hereunto annexed, or to the like effect, intimate their desire to adopt the provisions of this Act, and require the Sheriff to declare that the same have been adopted and that such Burgh or Town is under and subject to the said Act, the said Sheriff shall within *Six Days* after the receipt of such requisition cause intimation thereof to be made, by a notice containing a copy of the said requisition and of the names of the parties thereto subscribing, affixed upon the doors of the Parish Church or Churches within which the said Burgh or Town, or any part or parts thereof, is situated, that such requisition has been made, and requiring any qualified elector who may object thereto to the effect after mentioned, to give in his objections to the Sheriff Clerk within *Fourteen Days* after such intimation.

16.
Objections to
Requisition
may be made.

And be it Enacted, That it shall be competent for any Elector, within the time so fixed by the Sheriff, but not thereafter, to give in written objections to the requisition so made to the Sheriff, upon the ground, that the same is not signed by a majority of the Electors of such Burgh or Town, or that the Electors subscribing or any of them

them have ceased to hold the qualification upon which he or they was or were enrolled ; and the Sheriff shall direct such proceedings thereupon as he shall think fit, and shall thereafter proceed to dispose of such application, and shall award such expenses as he may think fit
 5 against the parties preferring the requisition or objecting thereto.

And be it Enacted, That if no objections shall be given in to such requisition, or if given in the Sheriff shall find such requisition to have been duly made, he shall pronounce an Interlocutor finding and declaring that this Act and the provisions thereof have been adopted
 10 and are and shall thereafter be applicable to such Burgh or Town; and if he shall find that such requisition has not been duly made, he shall pronounce an Interlocutor to that effect, and either such Interlocutor may be submitted to the review of the Lord Ordinary on the Bills, by a Reclaiming Note to be presented within *Fourteen Days*
 15 after such Interlocutor, and the decision of the said Lord Ordinary shall be final and conclusive ; and the Interlocutor of such Sheriff or Lord Ordinary, as the case may be, finding that the requisition has been duly made, and the Act adopted shall be registered in the Sheriff Court Books, and be intimated by a copy thereof being affixed
 20 on the doors of the Church or Churches of the Parish or Parishes within which such Burgh or Town, or any part thereof, is situated, within *Ten Days* after the date thereof, and shall also be published in the Edinburgh Gazette as soon as may be after such date, and being so published this Act shall thereafter be applicable and shall comprehend
 25 and apply to such Burgh or Town to all intents and purposes ; and the expenses attending such requisition shall, if the Act shall not be adopted, be paid by the requisitionists ; and if the Act shall be adopted, such expenses shall be paid by the Burgh or Town.

17.
 If Requisition
 duly made,
 Act to be de-
 clared to
 apply.

And be it Enacted, That if any Burgh or Town shall not have
 30 adopted the provisions of this Act during the first year after the passing of the same, it shall be competent for any *Ten* or more persons on the list or roll of Electors of such Burgh or Town retaining their qualification, at the distance of not less than *Two Years* thereafter, to apply to the Sheriff to have the list or roll of Electors made up of new or com-
 35 pleted ; and it shall be lawful for a majority of the Electors in such completed list to apply to the Sheriff, by requisition as aforesaid, to declare the provisions of this Act adopted in such Burgh or Town ; and the Sheriff shall thereupon follow forth the proceedings herein-
 before prescribed in relation to requisitions for the like purpose ; and if
 40 the Sheriff on any such occasion shall find that a majority of the Electors have not subscribed such requisition, it shall be competent, at the distance of not less than *Two Years* thereafter, to renew such applica-
 tion, requisition and proceedings ; and in all such cases the Sheriff shall decide as to expenses as he shall think just.

18.
 Roll of Elec-
 tors may be
 made up and
 requisition
 renewed in
 future years.

19.
Lists to be
accessible, and
Objection may
be made.

And be it Enacted, That each Town Clerk in each Burgh or Town which shall have adopted the provisions of this Act, shall in every succeeding year keep his List or Roll of Electors in the Town Clerk's Office or other place appointed for keeping the Records of such Burgh or Town, accessible without fee, between the hours of *Ten* of the clock in the Forenoon and *Four* of the clock in the Afternoon from the First to the Tenth day of August, and within *Five* Days after the last of these days any person intending to object to the continuance of any name on the said List or Roll in any such Burgh or Town shall be bound to give in his objections to such Town Clerk in the same way and manner, and to be disposed of by such Town Clerk and Chief Magistrate or Assessor in all respects as objections against original claims are herein directed to be disposed of, and each Town Clerk in such Burghs or Towns shall on or before the *Tenth day of September* in each such year proceed to correct and complete such List or Roll of Electors, by removing therefrom all the names to which such objection shall have been sustained and also the names of any persons who may be known to have died since such List or Roll was last completed, and shall also insert in such List or Roll the names of any persons who shall respectively have been admitted as Electors of such Burghs or Towns respectively in manner hereinbefore directed; and all persons interested shall be entitled to extracts from the said Lists, paying the Town Clerk for every extract at the rate of *Sixpence* for every *Seventy-two* words contained therein.

20.
Councillors to
be chosen.

And be it Enacted, That upon the *first Tuesday of November* next the Electors qualified and entered in the said List or Roll in each of the said Burghs or Towns contained in the Schedules (A.), (B.) and (C.) to this Act annexed respectively which shall have adopted the provisions of this Act, shall choose from among their own number the Councils of the said respective Burghs or Towns in manner following; (that is to say) the qualified Electors of each such Burgh or Town whose names shall be in the said List or Roll shall, at some place or places to be appointed by the Sheriff, of which intimation shall be made by Notice by the Sheriff-Clerk affixed on the Church doors of the Parish or several Parishes in which such Burgh or Town or any part thereof is situated *Ten* Days at least previous to such election, proceed to elect from and among the persons contained in the said List or Roll, such a number of Councillors for such Burgh or Town as are by the Schedules hereunto annexed, in which such Burgh or Town is placed, allotted to such Burgh or Town as the number of Magistrates and Council for such Burgh or Town respectively, by open poll, to be taken at the polling place appointed in each such Burgh or Town, in the presence of the Sheriff of the County, or his substitute to be appointed as aforesaid; and the Sheriff Clerks aforesaid, or the persons who may be appointed by the Sheriff to officiate

as

as Poll Clerks thereat (which person such Sheriff is hereby authorized to appoint), shall each have with him a certified copy of the aforesaid List or Roll, containing the names of the Voters qualified in respect of property situate in each such Burgh or Town, according to which the votes shall be taken; and it shall not be competent at such poll to inquire into any other facts than the identity of the party tendering a vote, and the person mentioned in such List or Roll, his still holding the qualification then mentioned, and his not having previously voted at the same election; all which facts it shall only be competent to prove by the oath of the party so tendering his vote, if required by any other voter on the List or Roll, and no other oath shall be put at such election, except only an oath against bribery, which, if required by any voter on the Roll, shall also be put by the Sheriff or Substitute at the polling place, which two oaths shall be put in the form of Schedules (H.) and (I.) to this Act annexed; and the Poll Clerk shall enter each vote for each person proposed in a Poll Book, and the Sheriff or Substitute presiding at such election, and the Clerk or person taking the poll, shall subscribe their names to each page of such book before any entry shall be made in the succeeding page.

20 And be it Enacted, That no Poll by this Act authorized to be taken shall be kept open for more than *One Day*, and that only between the hours of *Eight* in the Morning and *Four* in the Afternoon.

21.

Poll not to be open more than *One Day*.

And be it Enacted, That at all such elections of Councillors for the said Burghs or Towns, the Poll Books for the said Burghs or Towns shall, at the close of the poll, be sealed up by the Poll Clerk, and shall be delivered to the person who shall have presided at the election, who, on the next lawful day after the receipt of the same, between the hours of *Twelve* and *Two*, and within the Town House or other public building of such Burgh, shall openly break the seals, and, with the assistance of such persons as he may think fit to employ, shall cast up the votes given, and shall declare upon whom the election has fallen by the majority of votes, and shall forthwith give or cause to be given notice in writing to the several persons elected of such their election, and require them severally to appear in the Town House or other public room aforesaid on the Second lawful day after such election, when they shall severally declare whether they accept or decline accepting the office of Councillor; and if any person so elected shall decline to accept, or in case there shall be an equality of votes in favour of two or more persons, the whole of whom cannot be received as Councillors, then and in all such cases the Sheriff shall immediately appoint a new election of a Councillor or Councillors in place of him or them so declining to accept or so elected by equal numbers, at the distance of not more than *Four* nor less than *Two Days*, and affix notices of the day so appointed on the Church doors of the Burgh or Town, and such election shall be proceeded in, in

22.

Poll Books to be summed up and the Result declared.

all respects, in the same manner in which the first election and the taking the poll, casting up the votes and declaring the result is hereinbefore directed to proceed, until the Council of such Burgh or Town shall be completed.

23.
Persons elect-
ed failing to
attend held to
decline accept-
ing.

And be it Enacted, That in all the cases of election hereinbefore directed, if any person elected as Councillor shall fail to attend on the day appointed for declaring his acceptance, he shall be held to have declined accepting the said office unless he then transmit to the meeting a sufficient written explanation, signed by myself or his agent, of the cause of his absence, and intimating his acceptance. 5 10

24.
List of Coun-
cillors to be
made up.

And be it Enacted, That in this present year the Sheriff Clerk of the respective Counties within which such Burghs or Towns are situated, shall immediately upon the completion of the Election of Councillors as aforesaid make up a roll of such Councillors, in the order as nearly as may be of the number of votes which each Coun- 15
cillor had at the said first Election of Councillors; the Councillors having the greatest number of votes standing first on the said roll, and the other Councillors having priority according to the respective numbers of votes obtained by each; and where the number of such votes is equal, then the respective Councils, after the Councillors are inducted into office, 20
shall determine the place upon the said list or roll of such Councillors so having an equal number of votes; and the Town Clerk of such Burghs or Towns respectively shall, at each future Election, add to such roll the names of persons elected Members of Council in the same order as is hereinbefore prescribed in relation to the list or roll 25
of Councillors to be first made up under this Act, and the seniority of the Councillors shall in all cases be determined according to their place on the said roll so made up by the Town Clerk, or so determined by the Council, in cases of equality of votes as aforesaid.

25.
Persons hold-
ing Contracts,
&c. not eligible
as Councillors.

And be it Enacted, That no person in any Burgh who is directly or 30
indirectly by himself or any partner concerned or interested in or under any contract with, by or on behalf of such Burgh, or to which such Burgh is a party, or who holds directly or indirectly by himself or any partner any place of profit, office or employment under or in the appointment of the Magistrates and Council of such Burgh, shall be 35
capable of being elected or of acting as a Councillor thereof while he shall hold such place of profit, office or employment, or during the subsistence of such contract, or while any claim arising out of the same shall be unsettled; provided that no person shall be disqualified from being a Councillor by reason of his being a feuar or lessee of property 40
belonging to such Burgh or Town, or a proprietor or shareholder of any Company which may have a contract with such Burgh, the shares of which Company are transferable by public sale.

And

And be it Enacted, That the Councillors of the said Burghs or Towns respectively so elected and accepting shall, upon the Third lawful day after completing the election of the whole number of such Councillors in the present year, assemble in the Town-house, or other public place of meeting, within such Burgh or Town, to be fixed by the Sheriff, and shall there by a plurality of voices (the Councillor who stands first in the List or Roll of Councillors to be made up as aforesaid having a casting or double vote in case of equality) elect from among their own number the number and description of Magistrates allotted to such Burgh or Town in the said Schedule hereunto annexed, in which such Burgh or Town is placed, and also the Treasurer.

26.

Election of
Magistrates.

AND inasmuch as in each of the Burghs or Towns of Old Aberdeen, Macduff, Maxwelton, Bathgate, Castle-Douglas, Gatehouse and Pollockshaws, there now is a chief acting Magistrate denominated Provost; BE it Enacted, That the Chief or Senior Magistrate in such Burghs shall continue to be so denominated, anything in this Act or in the Schedule thereunto annexed to the contrary notwithstanding.

27.

Chief Magistrate in certain
Burghs to be
denominated
Provost.

And be it Enacted, That upon the completion of the first election of Magistrates and Council as hereinbefore directed, and annually thereafter, the Magistrates and Council of each such Burgh or Town respectively shall elect a Town Clerk for such Burgh or Town but for the period of One Year only, without prejudice to his re-election, and also such other officers or servants as may be necessary for conducting the business or managing the affairs of such Burgh or Town, who shall be appointed during pleasure.

28.

Election of
Town Clerk.

And be it Enacted, That at all meetings of Council, the presence of a majority of the whole Council shall be necessary to form a Quorum, and all questions on which a vote of the Council falls to be taken shall (where not otherwise hereby specially provided) be determined by the majority of the Council present; and where there is an equality of votes, the casting vote over and above a deliberative vote shall belong to the senior Magistrate present, and in the absence of a Magistrate to the Councillor present, whose name shall stand highest upon the foresaid List or Roll of Councillors, who shall be entitled to preside at such meetings of Council.

29.

Quorum of
Council.

And be it Enacted, That where any trust or management is, by the terms of any public or local Act, or of any Charter or Deed of Foundation or other Deed, conferred on the present Magistrates and Council of any of the said Burghs or Towns, or where there has by any such Act, Charter or Deed been devolved upon any Trustee or Trustees, Manager or Managers, Commissioner or Commissioners, or on any body or bodies, person or persons, the management and administration,

30.

Magistrates
and Council
to come in
place of Trustees
or
Managers, &c.

control or superintendence of any property, funds, revenues, harbour-rates or other dues belonging to any of the said Burghs or Towns, applicable to public purposes within any of the said Burghs or Towns; the Magistrates and Council to be elected according to the provisions of this Act shall come in place and stead of, and have the same powers and rights as belong to the existing Magistrates and Councils, or to such Trustees, Managers, Commissioners, bodies, or persons; and the powers and rights of such existing Magistrates and Councils, or Trustees or others aforesaid shall thereupon cease and determine; and where any such trust or management is conferred on any particular members of the present Council or Magistracy, or Office-bearers of any such Burgh or Town ex officio, the Town Councils to be elected in terms of this Act shall, immediately after their acceptance and induction into office, nominate and elect from their own body such number of persons to be such Trustees or Managers as are by such Acts, Charters or Deeds appointed to those offices under the said denominations; and the whole powers and functions now belonging to the said offices of Trustees or Managers shall belong to and be as fully vested in the persons so elected as if they had possessed the denominations used in the said Acts, Charters or Deeds, and such persons shall execute a declaration of trust, specifying the purposes for which and the conditions on which they hold such trusts, in conformity with the Charters or Deeds, or Bequest or Appointments by and under which such trust is created.

31.
Election of
Managers of
Charities.

And be it Enacted, That the Magistrates and Councils of the said several Burghs or Towns to be elected in terms of this Act shall, immediately after their acceptance and induction into office, elect the Trustee or Trustees, Manager or Managers of any charitable or other public institution existing in or connected with such Burghs or Towns, the appointment of the Trustees or Managers of which is at present vested in the Magistrates and Council of such Burghs or Towns: And where by any Act of Parliament, deed of trust, bequest or mortification, any of the former Magistrates of any such Burgh or Town shall ex officio, under the denomination of Baron Bailie or otherwise, have been appointed Trustee or Trustees, or Manager or Managers of any such charitable or other public institution along with other Trustees or Managers, the Magistrates and Council of such Burgh or Town shall at the same time and in the like manner elect from their own body an equal number of persons to be such Trustee or Trustees, Manager or Managers, in the stead of such former Magistrate or Magistrates: And the whole powers and functions now belonging to the said offices of Trustees or Managers shall belong to and be as fully vested in the persons so elected as if they had possessed the denomination used in the said deeds, bequests or mortifications.

And

And be it Enacted, That upon the completion of the first election of Councillors, Magistrates and Office-bearers in the said respective Burghs or Towns under the provisions of this Act, the Provost, Magistrates, Baron Bailies, Office-bearers and Councillors now
 5 in office, and the Trustees, Managers, Commissioners, bodies and persons aforesaid in such Burghs or Towns respectively shall go out; and their whole jurisdiction, civil and criminal, powers, duties and functions shall cease and determine, and there shall thereafter be no other Magistrates or Officers, or Trustees or others aforesaid for such Burghs or Towns
 10 than those hereby specified and directed to be elected and chosen as aforesaid; and such Magistrates so to be elected and chosen shall possess no other or farther powers or jurisdiction than such as are conferred upon them by this Act.

32.
Existing
Councils, Ma-
gistrates and
Trustees to
go out on com-
pletion of next
Election.

And be it Enacted, That in all future years and at all such future
 15 Elections, the powers, authorities and duties hereby conferred and imposed upon the Sheriffs and their Substitutes, and Sheriff Clerks or other persons to be appointed by the Sheriff to act under the provisions of this Act, regarding the receiving and disposing of claims and objections, in so far as not hereinbefore provided, and making up lists,
 20 presiding and officiating at elections, taking the poll and declaring the election, and all other matters and things in relation thereto, shall be and the same are hereby conferred and imposed upon the Chief Magistrates, Assessors, Town Clerks and other persons to be elected and appointed under the provisions of this Act, according to the several
 25 and respective duties of each, to the same effect as the same are hereby conferred upon such Sheriffs, Substitutes, Sheriff Clerks and others.

33.
Chief Magis-
trates to act
at future
Elections.

And be it Enacted, That upon the *first Tuesday of November in the year One thousand eight hundred and Thirty-eight*, and in every
 30 succeeding year, *One-third* of the whole Council of each such Burgh or Town in the Schedules (A.), (B.) and (C.) to this Act annexed shall go out of office; and in the said year *One thousand eight hundred and Thirty-eight*, the *Third* who shall go out shall consist of the Councillors who, at the first election under this Act, stand lowest upon the said List
 35 or Roll of Councillors for the present year; and in the succeeding year *One thousand eight hundred and Thirty-nine*, the *Third* of the Councillors who shall go out of office shall consist of the Councillors who at the first election under this Act stand next lowest upon the said List or Roll of Councillors; and in the year *One thousand eight hundred*
 40 *and Forty*, the remaining third of the Councillors chosen at the first election under this Act shall go out of office; and in every succeeding year the *Third* of the Councillors who shall annually go out of office shall consist of the Councillors who stand highest upon the said List or

34.
Council how
to go out
of Office.

Roll : Provided always, That Councillors on going out of office shall be capable of being immediately re-elected : Provided always, That the above rotation or retiring from office shall not affect the Chief Magistrate or Treasurer.

35.
Succeeding
annual Elec-
tion of Coun-
cil.

And be it Enacted, That upon the said *first Tuesday of November One thousand eight hundred and Thirty-eight*, and upon the same day in every succeeding year, the Electors in such Burghs or Towns respectively shall in like manuer assemble and elect, in manner hereinbefore prescribed in relation to the first election under this Act, such number of Councillors as shall supply the place of the Councillors who shall as hereinbefore directed go annually out of office : Provided always, That in case any of the days hereinbefore mentioned shall happen to be a Sunday or other holiday on which no business is usually transacted, then and in that case the several acts and proceedings appointed to take place on such days shall take place on the day next ensuing. 5 10 15

36.
Vacancies of
Magistrates
going out of
Office, how
supplied.

And be it Enacted, That when any Magistrate or Office-bearer shall go out of office at the annual retirement of Councillors, the place of such Magistrate or Office-bearer shall be supplied by election by the Council as soon as the full number thereof shall have been completed by the annual election then hereby directed to take place ; 20 and the said election shall be made by plurality of voices, and the Chief or Senior attending Magistrate shall have a double or casting vote in case of equality : Provided always, That the Chief Magistrate and the Treasurer shall remain in office for the period of *Three Years*, and that any person elected a Bailie shall continue 25 to hold the office of Bailie during the period for which he holds the office of a Councillor, and Magistrates or Councillors going out of office shall at all times be capable of being re-elected, if then duly qualified.

37.
Councillors,
&c., may
resign.

And be it Enacted, That any person elected and accepting the office 30 of Councillor, Magistrate, or other Office-bearer in any Town Council under the provisions of this Act, may resign his said office at any time, upon giving not less than *Three Weeks'* notice of such his intention by a written intimation to the Town Clerk or Chief Magistrate ; and in the event of such resignation being intimated as to be made at the period 35 of the annual retirement of Councillors on the said *Second day of November*, such additional number of Councillors shall then be elected as may be necessary to complete the Council : Provided always, That no fine or other penalty shall be exigible from any person either declining to accept after his election, or subsequently resigning his office. 40

38.
Vacancies
occurring
within the

And be it Enacted, That if any vacancy shall occur in the office of Councillor in any such Burghs or Towns between the period of the annual election,

election, the Councils of such Burghs or Towns shall on a day to be fixed by the Chief Magistrate acting for the time, such day not being sooner than *Six* nor later than *Ten* Days after such vacancy, elect from the persons qualified to be Councillors, another person to supply such
 5 vacancy; and the person so elected shall hold office until the next annual election, when such vacancy of Councillor shall be supplied by the electors; and unless the person causing the vacancy would have regularly gone out at such annual election, the name of the person then elected Councillor shall be inserted in the roll in the same place in which the
 10 person causing the vacancy stood, and such person so elected shall remain in office only during the time for which the person causing the vacancy would have regularly remained in office, and he shall then go out of office, but shall be capable of immediate re-election if then duly qualified: Provided, That if such vacancy shall occur in the office of
 15 Bailie, (other than the Chief or Senior Magistrate), the Councillors shall elect a Councillor as aforesaid, and shall thereafter fill up the vacant office of Bailie; and the Councillor so elected shall hold office till the next annual election, when his place shall be supplied by the electors; and unless the Bailie causing the vacancy would have regularly gone
 20 out of office at such annual election, the name of the person so elected a Councillor at the annual election shall be inserted in the Roll in the same place in which the Bailie causing the vacancy stood, and he shall remain in office during the time for which such Bailie would have remained in the Council, and he shall then go out of office: Provided
 25 further, That if a Bailie (other than the Chief or Senior Magistrate) shall resign his office of Bailie and retain that of Councillor, the Council shall within the period above specified for supplying the vacancy of a Councillor, elect from among their own number a person to supply such vacant office of Bailie.

30 And be it Enacted, That when any vacancy shall occur, between the period of the annual election, in the office of Chief Magistrate or Treasurer in any of the said Burghs or Towns, by death, disability or resignation, the Councils of such Burghs or Towns shall elect a qualified person to be Councillor, and shall thereafter supply by election such vacancy
 35 of Chief Magistrate or Treasurer; and such person so elected a Councillor shall hold office till the next annual election, when a Councillor to supply the vacancy shall be supplied by the electors; and if such Chief Magistrate or Treasurer causing the vacancy would not at such annual election have regularly gone out of office, the person chosen to supply
 40 such vacancy of Chief Magistrate or Treasurer shall hold such office during the period for which the person causing the vacancy would have remained in office, and no longer: Provided, That if the Chief or Senior Magistrate or Treasurer, shall resign their said offices and retain that of Councillor, the Council shall, within the period above specified for supplying the vacancy of a Councillor, elect from among their own number

39.
 Vacancies of
 Magistrates
 occurring dur-
 ing the year.

a person to supply such vacant office of Chief or Senior Magistrate or Treasurer, who shall hold such office during the period for which such person so resigning would have held such office; and the person so resigning shall remain in the Council during the period he would have held office as a Councillor; and if that period has elapsed before his resignation of such office of Chief or Senior Magistrate or Treasurer, he shall retire from the Council at the next Annual Election. 5

40.
Burghs having
no legal
Council.

And be it Enacted, That where any such Burgh or Town shall, in consequence of the decision of a Court of Law or other cause, be without any legal Council or Magistracy, all the functions directed by this Act to be performed by the existing Magistrates or Councils shall be performed by *One* or more of the Managers who may by any lawful appointment be authorized to administer the affairs of any such Burgh or Town, and in default of any such Managers, by the Sheriff or Sheriff-Substitute of the County. 10 15

41.
Town Clerk
to give
Notices.

And be it Enacted, That all the Notices or Intimations hereby directed or required to be given or made in any such Burgh or Town of any meetings or proceedings to be held or had in the matter of the elections of or respecting such Burgh or Town, in relation to any of the proceedings under this Act in this present year shall be given by the respective Sheriff Clerks, and in future years shall, where not directed to be otherwise given, be given or made by the respective Town Clerks thereof: Provided always, That no Councillor, nor the Partner in business of any Councillor, shall be entitled to hold the office of Town Clerk in any such Burgh or Town, and that no Town Clerk or Depute Town Clerk shall be entitled to vote in the election of Councillors, or to interfere directly or indirectly in the election of Magistrates or Office-bearers for such Burgh or Town. 20 25

42.
Fees of Sub-
stitutes, &c.,
how to be paid.

And be it Enacted, That the several persons officiating at elections as Substitutes for the Sheriffs or Assessors for the Chief Magistrates in such Burghs or Towns, shall be entitled to receive a sum not exceeding *Three Pounds and Three Shillings* for each day they shall respectively be so employed, and the Poll Clerks the sum of *One Pound and One Shilling* each for the same period, which sum, together with all the other expenses attending such elections, or the making up of Registers, giving notices at the Church doors, and providing copies of the said Registers or parts thereof for the purposes of election, shall be defrayed from the common good or other means or revenues of such Burghs or Towns respectively. 30 35

43.
Vesting Pro-
perty in
Magistrates.

And be it Enacted, That the common good and property, heritable and movable, and means and revenues, and income of every description belonging to or leviable within any Burgh or Town included in this Act, 40

Act, or to which such Burgh or Town is entitled, or which are held or administered for or on behalf of the community of such Burgh or Town for the public ends and purposes thereof, (but subject to any liabilities to which the same are legally liable,) shall be and the same are hereby
 5 vested in the Magistrates and Council to be elected for such Burghs or Towns respectively under the provisions of this Act, with full power, right and authority to adjudge, sue for and recover the same for the benefit of such Burghs or Towns respectively.

And be it Enacted, That all Mortifications, Endowments, Trusts or
 10 Bequests, or Trust Property, held and administered by the present Magistrates and Councils of any such Burgh or Town, or by any person or persons, body or bodies, holding or administering the same in any such Burgh or Town in which there were heretofore no Magistrates and Council, for the behoof of such Burgh or Town, or the community
 15 thereof, (but subject to any liabilities to which the same are legally liable,) shall be vested in and held and administered by the Magistrates and Council to be elected and chosen for such Burghs or Towns respectively under the provisions of this Act, to, for and upon the trusts and purposes, and subject to all the conditions and provisions under which
 20 the same were conveyed, granted or settled by the granters or makers of such Mortifications, Endowments, Trusts and Bequests, with full power, right and authority to adjudge, sue for, collect, levy and recover the same for the purposes thereof respectively, and for no other purposes.

44.
 Vesting Trust
 Property in
 the Magis-
 trates.

And be it Enacted, That it shall be lawful, in the first year after
 25 an Election under this Act, for the Magistrates and Council of each such Burgh or Town which has no common good or means, or of which the Common Good or means are not sufficient to defray the expenses of the Municipal and Police Establishment of such Burgh or Town, to impose and levy an assessment for that particular year upon the rent of
 30 all such lands, houses and heritages within such Burgh or Town as may be occupied by tenants, and upon the annual value of all such premises as may be occupied by the proprietors thereof, not exceeding *One Shilling* in the pound of such rent in such of the said Burghs or Towns as have no local Act for Police purposes, and not exceeding
 35 *Three-pence* in the pound on such rent in such of the said Burghs or Towns as have such local Act, and that in order to defray such expense or such part thereof as the present means of such Burgh or Town is inadequate to defray; excepting always from such assessment all feu duties, and also all such lands and premises as may be occupied solely
 40 for agricultural purposes or for pasture, or as nurseries, or market gardens; and all subjects occupied solely for the purpose of public worship, or of charity or science or education; and such assessment shall be payable by the tenant or occupant of such lands and heritages; but such tenant or occupant by whom such assessment shall be

45.
 Assessment
 where Burghs
 have no Com-
 mon Good, or
 no sufficient
 Common
 Good, for first
 Year.

paid shall be entitled to deduct *One-half* of such assessment from the rent, payable to the proprietor or person by whom such lands or heritages were let, who shall be liable for such assessment in case of the removal or default of the actual possessor of the premises, and such assessment shall be payable half-yearly or yearly, at such term or terms as the Magistrates and Town Council shall appoint: Provided always, That no such assessment shall be imposed or levied unless the same shall have been approved of by a majority of at least *Two-thirds* of the Magistrates and Council, at a meeting called for the special purpose. 5

46.
Notice and
Act of Council
before Assess-
ment imposed
in future years.

And be it Enacted, That it shall be lawful in all future years for the Magistrates and Council of each such Burgh or Town to impose and levy an assessment as aforesaid; provided that *Three Months* at least previous to the annual election of Council, preceding the time at which it is intended to impose such assessment, a majority of at least *Two-thirds* of the whole Magistrates and Council have passed an Act of Council setting forth in detail the state of the Burgh Revenues, and exhibiting the deficiency of the Burgh Revenue and other causes rendering such assessment necessary, the amount of the proposed assessment, and the purposes to which the same is intended to be applied, nor unless such Magistrates and Council shall have caused a written or printed copy of such Act of Council to be affixed within the Town Clerk's office, and upon the doors of the Council-chamber, Town-hall and Court-house or other place where the Council are in use to meet, and also upon the doors of the Parish Church or Churches within which the said Burgh or Town or any part thereof is situated, *Two Months* preceding the annual election of Councillors as aforesaid, nor unless such Act of Council shall after such publication thereof as aforesaid, be approved of and confirmed by a majority of at least *Two-thirds* of the Magistrates and Council assembled at a meeting to be called for taking the same into consideration within *One Month* after the annual election of Councillors succeeding the publication of such notice, so that such assessment shall before being imposed be in all cases proposed by the Magistrates and Council of *One Year*, and be approved of by the Magistrates and Council of another year. 10 15 20 25 30

47.
Valuation of
Lands and
Heritages
liable to
Assessment.

And be it Enacted, That the Magistrates and Council of any such Burgh or Town in which such assessment shall be imposed shall previous to the imposition of such assessment, cause a valuation of the lands and heritages liable to assessment within such Burgh to be made up by some public officer of such Burgh or Town, or by a Surveyor to be appointed for the purpose, which Surveyor they are hereby authorized to appoint, showing the real rent of the several subjects on which such assessment is intended to be imposed, and the person so to be appointed to make the same shall be entitled to the inspection and use of the rolls or lists made up for the imposition 35 40

imposition and collection of the land tax or cess or assessed taxes, or for the imposition and collection of any other public or local tax or burthen, and such valuation being completed, the Magistrates and Council shall *Two Months* previous to the imposition of any
 5 such assessment, cause intimation to be made by a written, or printed notice, affixed in the Town Clerk's Office, and on the doors of the Council Chamber, Town-hall and Court-house, or other place where the Council are in use to meet, and upon the doors of the Parish Church or Churches, within which the said Burgh or Town or any
 10 part thereof is situated, that such valuation and the amount of the Assessment proposed to be made on the several lands and heritages therein valued will be deposited on a day to be specified in the notice in the Town Clerk's Office, there to be open for *Four Weeks*, for the inspection, gratis, of all concerned, and such valuation and assessment
 15 shall be deposited and lie open accordingly; and such notice shall further set forth the time and place at which any party dissatisfied with such valuation and assessment may be heard upon an appeal therefrom, to be made in manner hereinafter mentioned, such time not exceeding *Seven Days* after the expiration of the *Four Weeks* during which the
 20 valuation is to lie for inspection.

And be it Enacted, That such Magistrates and Council shall appoint a Committee of *Three* of their number to determine any Appeal that may be made against such valuation; and it shall be lawful for any person dissatisfied with the valuation of his or her property
 25 and proposed assessment within the foresaid period of *Four Weeks*, but not thereafter, to lodge with the Town Clerk of the Burgh a note in writing, stating the grounds of Appeal; and whatever such Committee shall, after hearing such Appeal, determine, shall be final and conclusive, and not subject to review in any manner of way.

48.
Committee of Appeal.

And be it Enacted, That when such assessment or valuation shall be finally settled, a statement of the amount of the sums to be levied from the several persons liable for the same, signed by the Town Clerk, shall be delivered by the Magistrates and Council to the Chamberlain or Town Treasurer of such Burgh or other person, whom the Magistrates and Council shall employ to collect such assessment, as his
 30 warrant for collecting, and such person shall enter such state in a book to be kept by him, and shall also enter in such book a regular and distinct account of the sums received by him.

49.
Valuation and Assessment to be delivered to Collector as Warrant.

And be it Enacted, That where any person rated and assessed under this Act shall refuse or neglect to pay the assessment charged upon him for the space of *Ten Days* next after the same shall be due and demanded by the Collector, it shall be lawful for the said Collector to apply to any Magistrate of the Burgh for a warrant to any of the
 40

50.
Recovery of Assessment.

officers of the said Burgh to enter the premises, and to appraise and point the goods and effects of the person assessed and refusing and neglecting as aforesaid, which warrant the said Magistrate is hereby authorized and required to grant upon a certificate, signed by the Collector or person who made the demand, of such demand having been made, and of such person being in arrear to the amount to be stated in the certificate; and if such assessment shall not be paid within *Three Days* after such pointing, together with charges and expenses thereby incurred, then the said Collector is hereby authorized to sell by public roup, either on the premises where the said goods were pointed or any other public place, such part of such goods or effects as shall be sufficient to pay such assessment, with the expenses attending such pointing and sale, returning the surplus, if any be, to the owner; and failing the recovery of all or any part of the assessment in arrear in manner before described, the Collector shall be and he is hereby authorized and empowered to prosecute for and otherwise recover the same according to law, and the Collector shall be bound to preserve the warrants of such pointings or sales, or enter in a book to be kept for that purpose the names of the parties proceeded against, the assessment due, the expense of the proceedings, and the true proceeds of each sale, which book shall be open to the inspection (without any fee) of all parties interested for *Three Months* after the date of each sale respectively; and at any time within that period it shall be competent to any party considering himself aggrieved to complain to the said Magistrate of any thing done unjustly or oppressively in regard to such pointing or sale, such complaints being made in the form of Petitions subscribed by the Complainant, and the decision of the Magistrate shall be final, and not subject to review in any court by any form whatever.

51.
Application of
Assessment.

And be it Enacted, That the assessment to be so imposed, levied and collected, shall be applied in defraying the expenses of the municipal establishments of such Burghs, the maintenance of an efficient police, the paving, lighting, cleansing and watching the streets of the Burgh, and supplying the same with water, or any such one or more of these or other similar purposes which in the circumstances of the Burgh may be necessary, and which shall have been specified in the Act of Council to be passed and published as aforesaid.

52.
Additional
Assessment
may be im-
posed.

And be it Enacted, That if it shall appear to the said Magistrates and Council respectively that the said assessment is inadequate for the purposes aforesaid, it shall be lawful for the said respective Magistrates and Councils to cause written or printed notices to be affixed within the Town Clerk's office, and upon the walls of the Council-chamber, Town-hall or Court-house, or other places where the Council are in use to meet, and upon the doors of the Parish Church or Churches, within

within which the said Burgh or Town, or any part thereof is situated, specifying the amount of any additional assessment which they proposed to levy, and requiring the rate-payers of such Burgh or Town who object to such additional assessment, within *Ten Days* after the date of such notice, to signify their dissent from such proposed additional assessment by subscribing their names and designation in a book, which shall be provided by the Town Clerk for that purpose, and which book shall accordingly be open for the purpose aforesaid in the office of the Town Clerk for the said period of *Ten Days* from and after the date of the said notices; and if at the end of that period a majority of the whole rate-payers of the Burgh or Town shall not have signified their dissent from the said additional assessment in manner aforesaid, the said Magistrates and Council shall have the same powers to levy the said additional assessment as they possess to levy the assessment of *One Shilling* in the pound, hereinbefore authorized to be levied: Provided always, That such additional assessment shall in no case exceed *Sixpence* in the pound; and provided further, that if a majority of rate-payers object to an additional assessment, it shall be competent for the Magistrates and Council again to renew the notices, with a view to impose an additional assessment, but not until the expiry of *Twelve Months* from and after the period when an additional assessment was formerly proposed to be levied, and was objected to as aforesaid.

And be it Enacted, That it shall be lawful to the respective Magistrates and Council of any of the said Burghs or Towns, on the application of any occupant of subjects assessed or liable to be assessed in virtue of this Act, to remit on the ground of poverty the Assessments payable by such person, and that either in whole or in part, but no remission or exemption shall be granted on any other ground whatever.

53.
Assessments may be remitted on ground of poverty, but on no other ground.

And be it Enacted, That upon a requisition to that effect, subscribed by a majority of Rate-payers liable to the assessment authorized to be imposed by this Act, but not otherwise, it shall be lawful for the Magistrates and Council of any such Burgh or Town in which there is any Petty Customs, Impost, Rate or Duty payable to the superior thereof, or to any other person or persons, to contract and agree with such superior or other person for the purchase of such Petty Customs, Imposts, Rates or Duties, (Feu Duties, and the feudal casualties payable to the superior excepted,) and to levy an assessment upon such Burgh or Town for the price agreed to be paid to such superior or other person as the price of such Customs or other Rates and Duties; and all such Petty Customs, Imposts, Rates or Duties so acquired by any Burgh or Town shall be forthwith abolished in all time coming.

54.
Magistrates may agree for purchase of Petty Customs, &c.

And be it Enacted, That if the superior or other person entitled to such customs, imposts, rates or duties shall refuse to sell the same, or

55.
Value in certain cases to be fixed by a Jury.

if such superior or other person and such Magistrates and Council desirous of acquiring the same shall be unable to agree regarding the value thereof, it shall be lawful for such Magistrates and Council to apply by petition to the Sheriff of the County in which the Burgh or Town wherein such customs, imposts, rates or duties are leviabie is situated, requiring him to summon a Jury to ascertain the value of such customs, imposts, rates or duties, which petition the Sheriff shall cause to be intimated to the opposite party; and the Sheriff shall within *Fourteen* Days after such intimation is made, cause to be summoned in the usual manner in which Juries are summoned in Scotland, an Assize of at least *Twenty-one* impartial and disinterested persons on such day as he shall fix, which Assize being called on the day appointed; the names of the persons attending thereon shall be set forth in a List to be prepared by the Sheriff, and the number of persons contained therein shall be reduced to *Nine* by each of the said parties (beginning with the superior or other person aforesaid), striking off alternately one name from the said List until the number be reduced to *Nine*, who shall be sworn and shall constitute the Jury to try and determine the value of the customs, imposts, rates or duties sought to be acquired by such Burgh or Town.

56.
Proceedings
in fixing value.

And be it Enacted, That the said petition to the Sheriff shall be laid before the Jury so to be appointed, and it shall be competent for both or either of the said parties to lay before such Jury all such lawful evidence as they shall think fit touching the value of such customs, imposts, rates or duties, and the Sheriff shall make a note of such part of such evidence as may not be in writing, and after deliberating thereon, and hearing parties or their Procurators if they shall desire to be heard, and after the case and evidence shall be summed up by the Sheriff, and upon due consideration of all the circumstances of the case, the said Jury shall by their verdict or determination fix the amount of the value in money of such customs, imposts, rates or duties in perpetuity, and upon payment of the value so ascertained to such superior or other person, but not sooner, such customs, imposts, rates and duties shall thereafter be abolished in all time coming; and the expenses attending the summoning of the Jury and proceedings and verdict shall in all cases be borne by the Magistrates and Council of the Burgh or Town party thereto.

57.
How price to be
secured when
Customs held
under entail.

And be it Enacted, That such proceedings may take place, and such customs, imposts, rates and duties be purchased in manner aforesaid, notwithstanding that the same or any part thereof be held by such superior or other person in the right of the same, under a deed or deeds of entail; provided that in such case the price to be paid for the same under such verdict as aforesaid shall be settled and secured in the like manner as is directed in the case of superiorities sold to the vassals of entailed

entailed estates, by an Act made in the twentieth year of the reign of his Majesty King GEORGE the Second, intituled, "An Act for taking away the Tenure of Ward Holding in Scotland, and for converting the same into Blench and Feu Holdings, and for regulating the Casualty of Non-entry in certain cases, and for taking away the Casualty of Single and Life-Rent Escheats incurred there by Horning and Denunciation in Civil Causes, and for giving to Heirs and Successors there a summary process against Superiors, and for discharging the Attendance of Vassals at Head Courts there, and for ascertaining the Service of Tenants there, and for allowing Heirs of Tailzie there to sell Lands to the Crown for erecting Buildings and making Settlements in the Highlands."

20 Geo. 2.
c. 50.

And be it Enacted, That it shall be lawful to the Magistrates and Council of any such Burgh or Town to put in force and execution the powers and provisions hereinafter granted and contained, relating to the paving, lighting, watching and cleansing the streets of such Burgh or Town, supplying the same with water, and regulating the police thereof, or such parts of such powers and provisions as may be deemed necessary and expedient for such Burgh or Town: Provided always, That it shall not be lawful to such Magistrates and Council to impose or levy any assessment for such purposes beyond the assessments by this Act authorized to be levied, except in manner and to the extent hereinbefore provided.

58.
Magistrates
and Council
may enforce
Police powers.

And be it Enacted, That the Magistrates to be elected under the provisions of this Act, shall have jointly and severally jurisdiction in all matters of police within the said respective Burghs or Towns, and shall have power to try summarily all petty crimes and offences committed therein, and to punish such crimes and offences by a fine not exceeding *Five Pounds*, and by imprisonment not exceeding *Thirty Days*, and by ordaining the offender to find caution to keep the peace for a period not exceeding *Six Months* under a penalty not exceeding *Ten Pounds*, or by awarding any one of these punishments; and where any fine or penalty is imposed, such Magistrates shall have power to commit the offender to prison until such fine or penalty shall be paid, but the period of such imprisonment shall not exceed *Thirty Days*; and such Magistrates shall have jurisdiction to grant warrant for apprehending all persons within the foresaid respective Burghs or Towns accused of crimes or offences wherever perpetrated, and for committing such persons for examination or further examination till liberated in due course of law, or for transmitting them to the other authorities, and shall be entitled to take precognitions, if deemed necessary, relative to all such and other the like crimes or offences.

59.
Magistrates to
have joint and
several juris-
diction in all
matters of
Police.

And be it Enacted, That nothing herein contained shall be held to confer on the said Magistrates the power to try or to punish for any of

60.
Certain
crimes not to
be punished
under this
Act.

the crimes denominated the Pleas of the Crown, videlicet, Murder, Robbery, Rape and Wilful Fire-raising, or the crimes of Stonthrief, or of Theft by house-breaking, or of House-breaking with intent to steal, or of simple Theft to an amount exceeding *Ten Pounds*, or of Theft by opening lockfast places, or of Theft aggravated by being habit and repute a common thief, or by having been *Three* times previously convicted of Theft, or of Reset of Theft to an amount exceeding *Ten Pounds*, or of Reset of Theft aggravated by having been *Three* times previously convicted of that crime, or of Falsehood, Fraud and Wilful Imposition to an amount exceeding *Ten Pounds*, or of Falsehood, Fraud and Wilful Imposition aggravated by having been *Three* times previously convicted of any offence of that nature, or of Assault to the danger of life, or of Assault with any knife or other lethal instrument whereby effusion of blood has followed, or of Assault aggravated by *Three* previous convictions for that crime, or of Assault with intent to Ravish, or of attempt at Wilful Fire-raising, or of culpable Homicide, or of Forgery, or of uttering Forged Bank or Bankers' Notes ; but if it shall appear either in the preliminary investigation of the charges against the persons accused, or during their trial, that they are guilty of or are charged with any of the said crimes, the Magistrates before whom such persons are accused or tried shall and are hereby authorized and required to transmit such persons to the gaol of the County within which the Burgh or Town in which such accusation or trial has occurred is situated, and forthwith to give notice of such transmission to the Procurator Fiscal of the said County, who shall immediately apply to the Sheriff for a Warrant to deal with the persons so transmitted according to law ; until the obtaining of which Warrant the Keepers of such gaols are hereby authorized and required to receive and detain the persons transmitted as aforesaid on the Warrant of the said Magistrates, any law or practice to the contrary notwithstanding.

61.

In cases of Theft, Reset of Theft or Fraud, Complaint and Conviction to bear value not above 10*l*.

And be it Enacted, That in all cases of Theft, or of Reset of Theft, or of Wilful Fraud and Imposition which shall be tried before such Magistrates, the complaint and the conviction following thereon shall bear that the sum of money or the value of the article or articles stolen, resetted or obtained by Falsehood, Fraud and Wilful Imposition, did not exceed *Ten Pounds*, and unless an offer shall be made at the time to prove that the article or articles stolen, resetted or obtained as aforesaid exceeded in value the sum of *Ten Pounds*, it shall not be competent thereafter for the person accused to offer any such proof.

62.

Councils to appoint Fiscal, at whose instance all Prosecutions shall be conducted, and by whom Fines and Penalties recovered shall be paid to Treasurer.

And be it Enacted, That it shall be lawful to the Magistrates and Councils of such Burghs or Towns respectively, and they are hereby required to appoint a fit person to be Procurator Fiscal for the purposes of this Act within their Burghs respectively, at whose instance all prosecutions and proceedings before the said Magistrates shall be conducted, and by whom all forfeitures under bail-bonds, whether by principal

cipal or cautioners, and all fines and penalties authorized by this Act may
 (where not otherwise expressly provided for) be sued for summarily be-
 fore the said Magistrates, who are hereby respectively empowered to
 decern for the same, and which forfeitures, fines and penalties (where not
 5 otherwise expressly provided as aforesaid) may be recovered by the said
 Procurator Fiscal by poinding and sale of the party's effects in manner
 hereinbefore provided as to assessments to be levied under this Act; and
 the said Procurator Fiscal shall have power to accept of bail from persons
 apprehended within the Burgh or Town accused of bailable offences, and
 10 to liberate them on such bail being found, which bail, where not other-
 wise required by law, shall be to an amount not exceeding *Ten Pounds*,
 without prejudice always to an application to be admitted to bail being
 made to a Magistrate in the usual form by the person accused, if the
 consent of the Procurator Fiscal to accept of bail be either not asked
 15 or be refused: Provided always, That all fines and penalties recovered
 by the said Procurator Fiscal shall be paid over by him (under deduc-
 tion of the necessary expenses attending the respective prosecutions
 and recovery of the fines and penalties) to the Treasurer of the Burgh
 or Town, to be held and applied by him as part of the common
 20 funds and property thereof.

And be it Enacted, That it shall be lawful for the said respective
 Magistrates and Councils to appoint Officers of Police, Watchmen and
 other persons necessary for the due execution of this Act, at such wages
 as they shall judge meet, and to remove them at pleasure, and to
 25 increase or diminish their number from time to time as they shall see
 cause, and to make orders and regulations for their government, and
 also for the proper watching, lighting, paving and cleansing the streets,
 roads and places within the said respective Burghs or Towns; to make
 orders and regulations for the prevention of infectious diseases, and for
 30 abating and removing nuisances which may affect the health or comfort of
 the inhabitants, and for supplying and distributing water and gas through
 the said respective Burghs or Towns, in so far as a supply of water or
 gas may be obtained under the provisions of this Act, and also for pre-
 serving the peace of such Burghs or Towns; for the slaughtering of cattle
 35 within the same; for licensing and regulating the number of sedan chairs,
 hackney coaches and other carriages which shall ply for hire, and also
 the number of porters in the said Burghs respectively; for fixing from
 time to time the stands or stations to be occupied by such sedan chairs,
 hackney coaches, carriages and porters, and the rates and fares to be
 40 exacted for time, and also for distances not exceeding *Five Miles* around
 the Burgh for coachmen, and *Two Miles* for chairmen and porters, and
 with power to enact penalties for enforcing the said orders and regu-
 lations, not exceeding *Twenty Shillings* for the first and *Forty Shillings*
 for the second and every other offence, to be recovered summarily
 before the said Magistrates, on the evidence of *One Witness*, and the

63.
 Councils may
 appoint
 Officers of
 Police, &c.,
 and make all
 necessary
 Regulations
 for watching,
 lighting,
 paving and
 supplying
 Burghs with
 Water, &c.

payment thereof, if not made within *Twenty-four* Hours, to be (if so authorized by the Judge) enforced by imprisonment not exceeding *Thirty* Days : Provided always, That the orders and regulations so to be made shall not be repugnant to the rules of the law of Scotland ; and provided further, That all such orders and regulations shall be legibly and distinctly painted upon boards, and hung up in conspicuous places in the said Burghs or Towns respectively, and renewed as often as may be necessary, and any person injuring or defacing the said boards shall be liable to be fined by the said Magistrates in a penalty not exceeding *Five Pounds*, and to be imprisoned till payment of the said penalty for a period not exceeding *Thirty* Days. 5 10

64.

Officers of Police to be Constables, and may apprehend with out written Warrant.

And be it Enacted, That the Officers of Police and Watchmen appointed and acting under the provisions of this Act, shall possess within the said respective Burghs or Towns all the powers and be subject to all the regulations belonging and applicable to Constables by the law of Scotland, and shall be sworn in as Constables by the said Magistrates ; and such Officers of Police and Watchmen are hereby specially authorized and required to apprehend and secure, and the said Procurator Fiscal may direct them and their assistants to apprehend and secure, and bring before the said Magistrates, without any warrant, all persons found within the said respective Burghs subject either to be tried by such Magistrates for any crimes or offences under this Act, or to be transmitted on suspicion or accusation thereof to another jurisdiction ; and all persons apprehended without a written warrant shall be brought before such Magistrates as soon as may be, and in no case later than within *Twelve* Hours after being so apprehended. 15 20 25

65.

Persons enticing Watchmen from Duty, to be liable in a Penalty not exceeding 20s.

And be it Enacted, That if any person shall lodge, harbour or entertain, or entice from his duty any Watchman or Police Officer appointed under this Act during his hours of duty, such person shall be liable in a penalty not exceeding *Twenty* Shillings for each offence, and to be imprisoned till payment thereof, but for a period not exceeding *Thirty* Days. 30

66.

Magistrates may suspend Officers of Police till next meeting of Council.

And be it Enacted, That it shall be in the power of such Magistrates to suspend any Officer of Police or Watchman appointed by them for neglect of duty or improper conduct, but any such suspension shall be intimated to and shall only be operative till the next meeting of such Magistrates and Council, who shall have power to do in the matter as to them shall appear proper. 35

67.

Retailers of Ale, Beer or Spirituous Liquors, who keep disorderly Houses, may be punished.

And be it Enacted, That it shall be in the power of such Magistrates, if they shall see cause, on complaint made to them by the said Procurator Fiscal against any person holding an Excise License for the sale of ale, beer or spirituous liquors, and who shall be proved to have 40 permitted

permitted riotous or disorderly conduct within his premises, or to have allowed them to be open at irregular hours, or to have permitted them to be in any way frequented or used in a manner injurious to the peace or good order of the neighbourhood, to declare the Excise License of
 5 such person to be forfeited, or to inflict fines on such person not exceeding in amount the highest fines hereby allowed to be inflicted by such Magistrates for other offences, and to ordain such persons to be imprisoned till payment of such fines, such imprisonment in no case exceeding *Thirty Days*, and to ordain them to find caution for their
 10 good behaviour for a period not exceeding *Six Months*, and under a penalty not exceeding *Thirty Pounds*.

And be it Enacted, That it shall be lawful to the Magistrates and Council of such Burghs or Towns respectively, to provide in each Burgh or Town a proper Police Office, containing suitable accommodation for
 15 the several Officers of the Establishment, and for confining prisoners as provided for by this Act, and also proper Watch-houses if necessary, in different situations ; and for these purposes to enter into contracts of Sale or of Lease, and all other necessary contracts, and to pay or become bound to pay in their corporate capacity such prices or rents as
 20 may be agreed on therefor.

And be it Enacted, That it shall be lawful for the said respective Magistrates and Councils to light or cause to be lighted, or to contract for lighting in a suitable manner with oil, gas or otherwise, the whole streets, roads and other places within the said respective Burghs, or
 25 any part thereof, as they shall from time to time think fit, and to place and erect the requisite lamps, lamp-posts, lamp-irons, gas-pipes, and other necessary works or apparatus, and to affix the same where necessary upon the walls of the houses or other buildings upon the sides of the said streets, roads or other places.

And be it Enacted, That if any person shall wilfully take away or injure any such lamps, lamp-posts, lamp-irons, gas-pipes, or appurtenances thereof, or shall wilfully extinguish the light of or within the same, such person shall be liable for such sum as shall be necessary for remedying the damage done (to be decerned for summarily by the
 30 said Magistrates, and recovered at the instance of the said Procurator Fiscal if not paid within *Forty-eight Hours*, by poinding and sale of the offender's effects, in the same manner as hereinbefore provided in regard to assessments imposed under this Act), and such offender shall further
 35 be liable in a fine to be inflicted as aforesaid, not exceeding *Five Pounds*
 40 for each offence, and to imprisonment till payment thereof for a period not exceeding *Thirty Days*.

68.
 Councils may provide Police Office, and other requisite Accommodation.

69.
 Councils may contract for lighting Streets, and may erect Lamp-posts, &c.

70.
 Persons injuring Lamps, &c. to be liable in Damages, and in a Fine not exceeding 5*l*.

71.

Councils may
procure Sup-
ply of Water.

And be it Enacted, That it shall be lawful for the said respective Magistrates and Councils to take all necessary means for procuring an adequate supply of Water for the use of the Inhabitants of the said Burghs or Towns, and for that purpose to enter into all necessary contracts with persons either within or beyond the Burgh or Town, and to construct all necessary Works both within and beyond the same, for collecting, conveying and distributing such Water into and through such Burghs or Towns respectively, and to open the streets, roads and grounds both in and beyond the boundaries of such Burghs or Towns from time to time, in order to place or replace and repair such Works, in such manner as may be necessary for effecting the purposes aforesaid.

72.

Sheriffs may
regulate
laying down,
altering or
repairing Gas
and Water
Pipes.

And be it Enacted, That it shall be lawful to the Sheriff of the County within which such Burghs or Towns are respectively situated, on a summary application made to him by any person interested, to make such orders on the respective Magistrates and Councils of such Burghs or Towns relative to the laying down, altering or repairing such gas-pipes and water-pipes as such Sheriff may judge necessary or expedient for preventing or stopping the escape of gas, and for regulating the opening and closing of the roads, streets and grounds through which such gas-pipes or water-pipes may pass; and such Sheriff shall have power to award such sums in name of damages (if any appear to be sustained) to the person so complaining as he may see just, and to find such person liable in or entitled to the costs of suit, and to the expenses incurred under any remit to persons of skill ordered by the said Sheriff as the said Sheriff shall think proper.

73.

Councils may
contract with
Occupiers of
Houses for
supplying
them with
Water or Gas.

And be it Enacted, That it shall be lawful for the respective Magistrates and Councils of the said Burghs or Towns to enter into contracts with the Occupier or Proprietor of any house or premises situated within the same for supplying such house or premises with Water or Gas, and such Occupier or Proprietor may thereupon, but not otherwise, be permitted to convey such water or gas into such house or premises upon making such termly payment to such Magistrates and Council, and on such other conditions as may be agreed upon: Provided always, That if at any time such termly payment shall fall into arrear, it shall be lawful for such Magistrates and Council and their Collector to levy the same by poinding and sale of the Debtor's effects in manner hereinafter provided for the recovery of assessments under the provisions of this Act, and to stop the further supply of water or gas to such house or premises in such manner as they shall direct: Provided further, That nothing herein contained shall be construed to prevent any person from taking water at any of the Public Wells already made or to be made within such Burghs or Towns respectively.

And

And be it Enacted, That every person supplied with Water by contract as aforesaid, shall, in every cistern or other receptacle for water, affix to the pipe conveying the water into his house or premises a ball-cock or other self-acting cock in such manner as the respective
 5 Magistrates and Councils or their Officers shall direct, and shall keep the same in repair, and shall prevent the water from running waste or being applied to the use of any other person than those resident within such house or premises, under a penalty not exceeding *Twenty Shillings* sterling for each offence.

74.
 Persons supplied with Water to prevent same running waste, under Penalty not exceeding 20s. for each offence.

10 And be it Enacted, That if any person shall take or cause to be taken or used any Water out of any pond, reservoir or aqueduct or other work belonging to such respective Magistrates and Councils, without their consent in writing, every person so offending shall be liable in a penalty not exceeding *Fifty Pounds*, to be sued for and recovered by
 15 such respective Councils, by summary petition to the Sheriff of the County, or to the Court of Session, or by the other ordinary remedies of law, and such penalty, when recovered, shall be applied in the same manner in which the other penalties imposed by this Act are directed to be applied.

75.
 Persons taking Water out of Pond, Reservoir or Aqueduct, without written consent of Council, to be liable in Penalty not exceeding 50l., to be sued for before Sheriff or Court of Session.

20 And be it Enacted, That it shall be lawful for the said respective Magistrates and Councils to appoint Scavengers and other Officers or Servants, and to enter into contracts for sweeping and cleansing the streets and other places in such Burghs or Towns, and to remove all dust, ashes, dung and other filth so collected to such places as the
 25 said Magistrates and Councils shall deem least offensive to the Inhabitants, with power to them to rent or purchase depôts for that purpose within or beyond such Burghs or Towns, and all such dust, ashes, dung or other filth, excepting always stable and byre dung, and the refuse of slaughter-houses, shall belong to such Magistrates and Councils respectively.
 30

76.
 Councils may appoint Scavengers, &c., and remove all Dust, Ashes, &c., to places least offensive to Inhabitants.

And be it Enacted, That wherever any house or building within any such Burgh or Town is to be erected, rebuilt or repaired, whereby risk may arise of any injury to the public, or wherever any articles or materials are wished to be deposited on any street or other public place, or
 35 any opening to be made therein, application shall previously be made to the Magistrates of such Burgh or Town for authority to that effect, and the person obtaining such authority shall be bound to erect and maintain at his own expense, at the sight of the said Procurator Fiscal, a proper fence around that portion of the street or
 40 place opposite or adjoining to the house or building to be erected, rebuilt or repaired, or around the articles or materials to be deposited, or around the opening to be made as aforesaid, and also to provide, if necessary, other temporary accommodation for passengers, all in such

77.
 Where Buildings to be erected or repaired, or Articles to be deposited on Streets, authority must be obtained to that effect, and Public secured from danger under Penalty not exceeding 10s. for each day's failure.

manner as such Procurator Fiscal or such Magistrates shall direct, and the person neglecting or refusing so to do shall be liable in a penalty not exceeding *Ten Shillings* for each day's failure, to be recovered by such Procurator Fiscal.

78.

Buildings which are insecure or dangerous, to be ordered to be taken down or repaired.

And be it Enacted, That if any house or other building within any such Burgh or Town shall be considered insecure, ruinous or otherwise dangerous to the Lieges, it shall be lawful to the Procurator Fiscal of such Burgh or Town to apply to the Magistrates and Council thereof to order an inspection of such house or building by persons of skill, and thereafter to require the owner or other person drawing the rents or profits of the same to repair and secure or to pull down and remove the same within such reasonable time, to be specified in the requisition, as the said Magistrates and Council shall direct; and failing compliance with such requisition, or failing there being any known person within Scotland to whom such requisition can be made, it shall be lawful to the Magistrates and Council to ordain such house or other building to be repaired and secured or pulled down and removed at the expense of the owner, who shall moreover be liable in a penalty not exceeding *Five Pounds* for every day during which he fails or refuses to comply with the requisition intimated to him as aforesaid.

79.

Owners of Houses may be required to form Pipes or Water-runs along Roof and Cornices of Houses.

And be it Enacted, That it shall be lawful for the respective Magistrates and Councils of such Burghs or Towns to require the owners of houses or other buildings within the same to form and keep in repair, at their own expense, leaden or other proper pipes or runs to be carried down the walls of such houses or other buildings respectively to the ground for collecting and conveying the water from the roofs and cornices of the said houses or other buildings, but in such a manner that the same shall not be discharged upon the foot-pavements, and if such requisition shall not be complied with within *Fourteen Days*, the person failing shall be liable in a penalty not exceeding *Five Shillings* for each day's failure, and the Magistrates and Councils shall have power to ordain such pipes or runs to be constructed or repaired at such owner's expense, to be recovered at the instance of such Procurator Fiscal.

80.

Entries to Cellars, &c. by sunk Steps to be secured by Iron Grating; and all dangerous articles on Roofs or other parts of Houses to be rendered secure, or removed.

And be it Enacted, That such Magistrates may order all entries to Cellars and other places adjoining to any public street or place by sunk steps or other openings in the street or pavement beyond the line of the wall of the building to which they belong, to be protected by an iron grating or other sufficient cover, in such manner as may be best suited for preventing danger to Passengers, and may order all Chimney-cans or Pots, Tiles, Slates, Shutters or other articles on the roofs, or any other parts of houses or buildings within such Burghs which may be deemed dangerous to passengers, to be forthwith removed or repaired by the persons having the right to or control over the same, and any person

person failing to comply with any such order shall be liable in a penalty not exceeding *Twenty Shillings* for each offence, besides the cost of making such grating or cover, or of removing or repairing the said other articles, as the case may be, which the Magistrates may order to be
 5 done at the expense of the party failing, to be recovered at the instance of such Procurator Fiscal.

And be it Enacted, That the said respective Magistrates and Councils may order all Houses, Buildings, Shops, Cellars or Warehouses within such Burghs or Towns respectively to be numbered with Figures to be
 10 placed or painted on such conspicuous parts thereof as they shall direct, and may likewise order the Name of each Street, Square or other place, to be placed or painted on some conspicuous place at or near the corner thereof, and any person who shall wilfully deface or injure any such Number, Figure or Name, shall for every such offence
 15 be liable in a penalty not exceeding *Ten Shillings*, and to be imprisoned till payment thereof, but for a period not exceeding *Ten Days*.

81.
Houses, &c.
to be num-
bered, and
names of
Streets
marked.

And be it Enacted, That no Gunpowder shall be sold within any such Burgh or Town by Candle or other artificial light, under a penalty not exceeding *Twenty Shillings* for each offence, to be paid by the person
 20 so selling the same; and no person shall bring or cause to be brought within any of the said Burghs or Towns more than *Ten Pounds* weight of Gunpowder at any one time, for the purpose of being shipped from or passing through such Burgh or Town, or for any other purpose, without giving previous notice to a Magistrate of such Burgh or Town,
 25 and adopting such precautions for the safety of the Lieges as such Magistrate shall direct, under a penalty not exceeding *Twenty Shillings* for each offence; and no person shall keep at any time, in any one place, within any of the said Burghs or Towns, more than *Ten Pounds* weight of Gunpowder, under a penalty for the first offence not exceeding
 30 *Twenty Shillings*, for the second offence not exceeding *Three Pounds*, and for the third and any subsequent offence, not exceeding *Five Pounds*, besides forfeiting (in case of such third or subsequent offence) all the Gunpowder which shall be found in such place exceeding the aforesaid weight; and the aforesaid quantity of *Ten Pounds* weight of Gunpowder
 35 allowed to be kept as aforesaid, shall be deposited in a place by itself, secured by lock and key, separate from all other goods and commodities, under a penalty not exceeding *Twenty Shillings* for each offence, and any person found liable in any of the said penalties shall further be liable to be imprisoned till payment thereof, for a period not exceeding in
 40 each case the space of *Thirty Days*: Provided always, That nothing herein contained shall interfere with the right of the Commanding Officer of any of His Majesty's Forces, or of any Volunteer or Yeomanry Corps, to keep such quantity of Gunpowder as he may think necessary for military purposes.

82.
Gunpowder
not to be sold
by Candle-
light, nor more
than Ten
Pounds
weight kept
in one place.

83.
Stairs or Pro-
jections on
Streets may
be ordered to
be altered or
removed.

And be it Enacted, That it shall be lawful for the Procurator Fiscal or any party interested to apply to the respective Magistrates and Councils of such Burghs or Towns for the removal or alteration of any stair or other projection from the wall of any building in any of the streets or other public places in the said Burghs or Towns respectively which may obstruct the free passage, or occasion hazard or inconvenience to passengers, and on such application being presented, it shall be lawful to the respective Magistrates and Councils of such Burghs or Towns to remit to persons of skill to report on the manner in which such stair or other projection may reasonably be removed or altered without depriving such building of a suitable access, and also to estimate the probable expenses of making such removal or alteration, and the amount of compensation, if any, which ought to be allowed to the proprietor for the injury his property may thereby sustain; and on consideration of such Report the Magistrates and Councils may order such stair or other projection to be altered or removed at the sight of such persons of skill within a period not less than *Thirty Days* after the date of the intimation of such order to the proprietor: Provided always, That it shall be lawful to the proprietor, if he shall be dissatisfied with the amount of compensation proposed to be allowed to him, to apply within *Ten Days* after such intimation to the Sheriff of the County to ascertain the proper amount of such compensation by a remit to and report from persons of skill, or, in the option of the proprietor, by the verdict of a Jury to be summoned in the manner in which Juries in Scotland are summoned, it being in the power of the said Sheriff to ordain caution to be found for expenses, and to determine all questions of expenses arising out of said application, and to fix a time within which such stair or projection shall be removed or altered as aforesaid; and if the same be not removed or altered within the time fixed by the said Sheriff in the case of an application to him, or within the time fixed by such Magistrates and Councils in case there should be no such application, then the party failing shall be liable in a penalty not exceeding *Twenty Shillings* for each Month during which he fails to implement the said order, and in case he so fails for the period of *Six Months*, then the said Magistrates and Councils may ordain the said stair or projection to be removed or altered as aforesaid at his expense, such fines and expense to be recovered at the instance of such Procurator Fiscal: Provided further, That wherever such Proprietor shall declare in writing his willingness to remove or alter such stair or projection as aforesaid, within the time fixed by the Magistrates and Council or Sheriff respectively, the said Magistrates and Council shall be bound to consign in a Bank the amount reported as found to be due as aforesaid to such proprietor for compensation and expenses (under deduction of the expenses, if any, decerned for by the said Sheriff in their favour) on a receipt taken payable to and lodged with the Sheriff Clerk of the County, who shall be bound to pay the amount thereof to such proprietor on the removal or alteration of

of such stair or projection being completed by him as aforesaid, or if the proprietor shall find caution to the satisfaction of the said Magistrates and Council to complete the removal or alteration within the time fixed by them or the Sheriff respectively, then such Magistrates and Council shall in all cases be bound to pay over to such proprietor the amount ascertained to be due as aforesaid, for compensation and expenses (under deduction as aforesaid) immediately on such caution being found.

And be it Enacted, That the proprietors of all houses and other buildings, and of grounds or other heritages on which there are no buildings, which are adjoining to or fronting any street or other public place within any of the said Burghs or Towns, shall, at their own expense, within *Thirty Days* after being required by the said respective Magistrates and Councils of such Burghs, cause foot-paths to be formed and sufficiently paved or otherwise constructed, in such manner and of such breadth as such Magistrates and Councils shall direct; and where any part of the streets or other ways, or of the pavements or foot-paths within any of the said Burghs made or to be made, or of the iron railings or area gates adjoining the same, shall fall into disrepair, the persons liable to repair the same shall be bound to do so within *Ten Days* after being required by such Magistrates and Councils; and failing any such order being complied with within the times respectively before specified, such Magistrates and Councils may ordain the work to be executed at the expense of the persons failing, who shall further be liable in a penalty not exceeding *Twenty Shillings* for each failure.

84.
Councils may order Foot-paths to be formed, and Iron Railings and Pavements, &c. to be repaired.

And be it Enacted, That the respective Magistrates and Councils of such Burghs or Towns shall have power to construct proper main drains or common sewers in all places within such Burghs where they may consider the same to be necessary, and from time to time to enlarge, alter and repair the same, and also to conduct drains for leading the rain and other water or soil into such main drains: Provided always, That the water at present carried into any existing outlet shall not be diminished or diverted therefrom without the consent in writing of the persons interested in such water: Provided also, That such Magistrates and Councils may, if they consider it reasonable, ordain the expense of making, altering or repairing such drains and sewers to be defrayed by the proprietors whose properties shall derive benefit therefrom, in the proportions to be fixed by such Magistrates and Councils, and to be recovered along with and in the same manner as hereinbefore provided in regard to the assessments to be levied under this Act: Provided further, That where any particular person or persons shall be bound to uphold any drain, sewer, water-pipe or water-course within any such Burgh or Town, and the same shall get into disrepair, it shall be lawful for such Magistrates and Councils to require such person or persons to repair the same within *Fourteen Days*;

85.
Drains and Common Sewers may be made, and ordered to be kept in repair.

and in case this requisition shall not be complied with, such Magistrates and Councils may ordain such repairs to be made at the expense of the party failing, who shall further be liable in a penalty not exceeding *One-half* the amount of the expense of executing such repairs, which expense and penalty shall be recoverable at the instance of the said Procurator Fiscal. 5

86.

One waste or foul Water-pipe may be made for each Tenement.

And be it Enacted, That in all streets or other places within any of the said Burghs or Towns where common sewers are now or may hereafter be constructed, it shall be lawful for any proprietor of a separate floor or flat, at the sight of the said Procurator Fiscal, or of a person of skill to be appointed by him, to erect one waste or foul water-pipe for the whole of the tenements on the back wall thereof on the outside, to communicate with any drain under ground leading into a common sewer, and to make such drain, if there be not one already, and afterwards to keep the same and the said pipe in sufficient repair, provided that the expense and damage (as the same shall be certified by the said Procurator Fiscal) occasioned by the constructing and repairing of such pipe and drain shall be recoverable by the person disbursing the same from the proprietors of the whole floors or flats in the same tenement, in proportion to their respective rentals, to be ascertained by the assessment roll, to be made up as hereinbefore mentioned. 10 15 20

87.

Councils may provide Fire-engines, &c., and appoint Firemen.

And be it Enacted, That the Magistrates and Councils of such Burghs or Towns respectively may provide *One* or more Fire-engines and Fire-cocks or Plugs as they may judge necessary in the said Burghs or Towns, and appoint fit persons for working the same, to be subjected to such rules and paid for their services in such manner as such Magistrates and Councils shall direct; and it shall be lawful for such Magistrates and Councils in cases of emergency to order such Fire-engines to be sent beyond the bounds of the Burgh or Town respectively, if they shall see cause so to do. 25 30

88.

Occupier of Premises, in which Chimney or Funnel takes Fire, to be liable in Penalty of 5s.

And be it Enacted, That if any Chimney, Flue or Funnel for conveying smoke within any such Burgh or Town shall be set on fire or shall take fire, the Occupier of the premises to which such Chimney, Flue or Funnel belongs shall be liable in a penalty of *Five Shillings*, which penalty when so recovered shall be paid by the said Procurator Fiscal in manner to be ordered by the said Magistrates to the person or persons (if any) who first reported the said fire to the said Procurator Fiscal, or at the Police Office. 35

89.

Councils may erect Steel-yards and Weigh-house, and make Regulations applicable thereto.

And be it Enacted, That the said respective Magistrates and Councils may erect and maintain Steel-yards or other Weighing Engines, and also a Weigh-house with proper weights, scales and measures in the said Burghs or Towns respectively, for the use of the inhabitants thereof and of persons resorting thereto, and may make such regulations and bye-laws 40

laws for regulating the same, and the dues to be exacted thereat, and for compelling all persons residing or coming within the said Burghs or Towns respectively to allow all goods or other articles sold or delivered by them within the Burgh or Town to be weighed thereat, as the said
 5 respective Councils shall from time to time think proper, and may enforce obedience thereto under such penalty and forfeiture as they shall affix, not exceeding *Twenty Shillings* for each offence.

And be it Enacted, That all Brokers and Dealers in second-hand goods other than Licensed Pawnbrokers resident within any such Burgh,
 10 shall be bound, before commencing business, and annually thereafter, to register their names and place of residence at the office of the Town Clerk, from whom they shall obtain by way of license a Certificate of such registration, on payment of a fee of *One Shilling*; and all Brokers and Dealers in second-hand articles, as well Pawnbrokers
 15 as others, shall at all reasonable times produce on demand to the said Procurator Fiscal or the officers acting under his orders all articles in their possession which they may have purchased or received in pawn, and shall also keep books in which the description of all such articles shall be entered, and shall produce such books when required
 20 as aforesaid; and such persons shall, on being informed that any articles in their possession are suspected of having been stolen or fraudulently obtained from the owner, deposit the same with the said Procurator Fiscal, who shall be bound to grant a receipt therefor, and enter the same in a book in manner after directed, in order that they
 25 may be produced in such manner as may be necessary for the ends of justice, or restored by order of a Magistrate; and in case any such person shall fail to produce such articles or any of them when required, or to deposit any articles suspected of having been stolen or fraudulently obtained as aforesaid, the said Magistrates may grant
 30 warrant to search for and produce the same to the said Procurator Fiscal; and all persons dealing in second-hand articles without being duly licensed as aforesaid, or who shall be convicted of offending against any of the provisions of this Act relative to such persons, shall be liable in a penalty not exceeding *Five Pounds* for each offence,
 35 without prejudice always to such persons being proceeded against according to law as Receivers or Resetters of stolen goods; where there shall be grounds for such procedure: Provided always, That a book shall be kept by the said Procurator Fiscal, in which entries shall be made of all property deposited or seized and detained as aforesaid, as
 40 well as of the time and manner in which the same shall have been afterwards disposed of.

90.
 Brokers and Dealers in second-hand Goods, other than licensed Pawnbrokers, to register Names and Residence, and produce Articles and Books when required.

And be it Enacted, That any person who shall sell or expose to sale in any of the said Burghs or Towns any Butcher-meat, Flesh or Fish of

91.
 Unwholesome Meat or Fish may be seized, and Exposers fined.

an unwholesome nature, or any Bull-beef without having the words " Bull-beef " exhibited on a board in Roman characters of at least *Three Inches* in length and of a proportional breadth, in black letters upon a white ground, over the place or stall in which it is so exposed to sale, shall be liable in a penalty not exceeding *Five Pounds* for each 5
 offence, or, in the option of the Judge, warrant may be granted to imprison the offender till payment of the said penalty, but for a period not exceeding *Thirty Days*, and all officers of the law shall and are hereby required to seize any unwholesome Butcher-meat, Flesh or Fish 10
 sold or exposed to sale, and any Bull-beef sold or exposed to sale without a board marked as aforesaid, and bring the same forthwith before the Magistrates of such Burghs or Towns respectively, and such Butcher-meat, Flesh or Fish, and Bull-beef shall in all cases on conviction be declared forfeited, and be disposed of as the said Judge shall 15
 direct.

92.
 Vagrants and
 common Beggars may be
 apprehended,
 and Persons
 harbouring
 them to be
 liable in a
 Penalty not
 exceeding
 20s. for each
 Offence.

And be it Enacted, That the Officers to be appointed under this Act may apprehend and bring before the Magistrates of such Burghs or Towns respectively for examination, all Vagrants and common Beggars found within any of the said Burghs or Towns, which they may be ordained forthwith to leave, if they have no legal residence within the 20
 same, and if they have such residence in any Parish situated in whole or in part within the Burgh or Town where they are apprehended, then they shall be sent to such Parish, and if after the expiration of *Forty-eight Hours* they shall be again found idle or begging within such Burgh or Town, they may be apprehended and committed to Prison as disorderly persons for a period not exceeding *Thirty Days*; and if any 25
 person within such Burghs or Towns shall knowingly harbour any person under sentence of banishment, or any vagrant, or any common beggar not having a legal domicile in the Parish where such person resides, and shall not give notice to some officer acting under the authority of this 30
 Act, in order that such banished person, vagrant or common beggar may be apprehended, every person so offending shall be liable in a penalty not exceeding *Twenty Shillings* for each offence, and to be imprisoned till payment of such penalty for a period not exceeding *Thirty Days*; and it shall be lawful for the said Procurator Fiscal, upon the 35
 information of any Police Officer, or other credible person, to enter, or specially authorize any Police Officer to enter at any time all tippling-houses, brothels and low lodging-houses within such Burghs or Towns respectively, where such banished persons, vagrants or common beggars are known or suspected to be harboured, and if entrance be refused 40
 to the said Procurator Fiscal or Officers, or if they be resisted, the person so refusing or resisting shall be liable in a penalty not exceeding *Forty Shillings* for each offence, and to be imprisoned till payment of such penalty for a period not exceeding *Thirty Days*.

And

And be it Enacted, That any Officer appointed under this Act may apprehend all thimblers, chain-droppers, loaded dice-players and all other persons who induce or entice any person to play at games of hazard on the streets, roads, lanes, passages or open places within the said

5 Burghs or Towns, and carry them before the said Magistrates thereof, who may order them forthwith, at sight of such Officer, to quit such Burgh or Town, under the penalty, if they shall be thereafter found within the same practising any of the said arts or devices, of being committed to Gaol for a period not exceeding *Thirty Days* for each offence.

93.
Thimblers,
Chain-drop-
pers and
loaded Dice-
players, &c.,
may be
ordered to quit
the Burgh or
Town, under
pain of Impri-
sonment.

10 And be it Enacted, That it shall be lawful for the Magistrates of such Burghs or Towns respectively, to issue such orders or proclamations as they shall judge proper relative to rabid or strayed Dogs, or to the confining or muzzling of all Dogs within such Burghs or Towns, for the purpose of preventing the dangers arising from canine madness; and

15 the Officers appointed under this Act, and other Officers of the Law, are hereby authorized and required to seize and destroy all Dogs found within such Burghs or Towns contrary to such orders or proclamations; and the Owners of Dogs who shall disobey or neglect such orders or proclamations shall be liable in a penalty not exceeding *Twenty Shil-*

20 *lings* for each offence, or to imprisonment till payment of the said penalty, for a period not exceeding *Thirty Days*.

94.
Regulations
may be made
to prevent
danger from
Canine Mad-
ness.

And be it Enacted, That if any person or persons shall carry, push, roll, drive, draw, or cause to be carried, pushed, rolled, driven or drawn, on any of the Foot-pavements within the said Burghs or Towns any

25 sledge, cask or wheelbarrow, wheel or wheels, or any coach, waggon, cart or carriage whatsoever (except directly across the same on necessary occasions); or shall allow any of these or any other obstructions to remain on any of the said pavements or streets; or shall wilfully ride, lead or drive any horse, ass, mule or cattle (except when going directly across

30 such foot-pavements to or from stables or cowhouses) upon any part of such foot-pavements, or shall in any such streets, squares, lanes or passages drive any carriage or carriages for the purpose of breaking or trying horses, or shall ride any horse for the purpose of breaking, trying, showing or exposing such horse for sale (otherwise than in the Public

35 Market-place, and upon the market days, and during the ordinary market hours, or in passing through such streets or other public places); or kill or slaughter, or scald, singe, dress or cut up any animal upon any of the said streets, roads or passages; or cause or permit any blood to run from any slaughter-house, butcher's shop or shamble into

40 or upon any of the pavements or streets; or shall throw or cast any dirt, dung, ashes, rubbish, soil or foul water into or upon the same; or shall roll any cask, empty or full, along the foot-pavements for any distance whatever (except across them directly to or from a cellar, shop or ware-house), or shall roll any such cask, except from a shop, cellar, ware-

140. house

95.
No Obstruc-
tion or Nui-
sance to be
allowed on
Foot pave-
ments or
Streets; and
Parties offend-
ing to be
liable in
Penalties:
Furious driv-
ing, &c. to be
punished.

house or other place directly to such cart or carriage as it is to be loaded upon or from such cart or carriage as it has been loaded upon directly to the shop, cellar, warehouse or other place in which it is to be deposited, not exceeding *Thirty Yards* in any case; or shall drive any cart or other carriage on the streets of the said Burghs or Towns, or any of the roads or passages within the limits over which this Act extends, furiously or improperly; or shall drive any four-wheeled carriage commonly called a wood-junker, without a person in charge of each pair of wheels; or shall leave any cart or carriage standing on such streets, roads or passages, yoked or unyoked, either during the day or night; or shall ride any horse furiously or improperly, or drive any horse or cattle or carriage of any kind in an improper manner upon any of the said streets, roads or passages; or shall lead or drive any plank or piece of timber exceeding the length of *Twenty Feet* upon or by means of any machine or carriage having less than four wheels; or suffer the loading of any cart, waggon or carriage to touch or drag upon any part of any such street or road; then it shall and may be lawful for any person who shall see such offence committed to seize such offenders, and by authority of this Act, and without any other warrant to convey them before the said respective Magistrates, or to the custody of any Officer of Police, to be conveyed before the said Magistrates, and if the party accused shall be convicted of riding or breaking, exercising or drawing or driving any horse or cattle, cart or carriage furiously or improperly, such party shall be liable in a penalty not exceeding *Five Pounds* for each offence; and if convicted of any other of the above offences, such party shall be liable in a penalty not exceeding *Twenty Shillings* for each offence, or, in the option of the Judge, the offender may be ordered to be imprisoned till payment of such penalties for a period not exceeding *Thirty Days* for each offence.

96.
Regulations to
be observed as
to riding,
driving, &c.
on Streets

And be it Enacted, That if the driver of any cart, waggon or other carriage shall drive on any street or other public place within the said Burghs or Towns respectively without having in his hands the reins or halter of each beast of draught drawing such carriage, or the foremost of such carriages if more than one, or shall ride on the shafts or any other part of such carriage within the said Burghs or Towns, or shall at any time quit the rein or halter and leave such carriage travelling on any street or other public place within any such Burgh or Town without having some person guiding the beasts or beast of draught by holding the rein or halter in his hand, or shall allow any dog attending him or his carriage to go at large and without being chained or fastened to such carriage, or if the driver of any carriage shall not keep to the left or near side of the road or street on meeting or being overtaken by any other carriage, or by any rider, or shall wilfully prevent any person from passing him or his carriage, or shall leave such carriage on any such street or other public place without a proper person in the sole care of it longer than

than necessary for loading and unloading, such driver shall for every such offence be liable in a penalty not exceeding *Five Pounds*, and to imprisonment till payment of the said penalty for a period not exceeding *Thirty Days*.

- 5 And be it Enacted, That if the loading on any cart or other such carriage, or on any beast of burden within any of the said Burghs or Towns (except in the case of hay or straw), shall project more than *One Foot* laterally beyond the wheels of such carriage, or more than *Thirty Inches* from the side of such beast or burden, or so as improperly to obstruct
- 10 any person, beast of burden or carriage, or if any person shall act as the driver of more than *Two* Carts or other such carriages on any street or other public places within such Burghs or Towns, or if the second of two carts or other such carriages, when under the care of only *One* person, shall be drawn by more than *One Horse*, or if the horse of such second
- 15 cart or other carriage shall not be attached by a rein to the back of the cart which shall be foremost, and fellow in the same line therewith, and within *Six Feet* from the same, the drivers shall for every such offence be liable in a penalty not exceeding *Forty Shillings*, and to be imprisoned till payment thereof for a period not exceeding *Thirty Days*.

97.
Regulations to be observed as to loading and driving of carriages, &c.

- 20 And be it Enacted, That it shall be lawful to the Magistrates of such Burghs or Towns respectively to cause all signs or sign-boards in the said Burghs or Towns to be affixed close on or flat to the wall of the buildings whereunto they respectively belong, and to order or cause to be removed all signs, sign-posts, boards, sheds, dyers', scourers' or barbers' poles, or any other poles or other articles projecting or hanging over any
- 25 of the foot-pavements, streets, squares, lanes or passages in any of the said Burghs or Towns, and all signs and sign-boards affixed to rails and projecting beyond the line thereof, and all goods exposed at the doors of shops, or on stands, stalls or stables, so as to encroach on the foot-pavements or streets, and to prohibit the offer of goods for sale at shop-doors,
- 30 or at any distance from the same, whereby passengers may be obstructed, and to prohibit persons from carrying baskets, boards or other articles on the foot-pavements or paths, or from calling of auctions or sales, at the windows or doors of shops or houses; and all persons
- 35 failing immediately to comply with or acting contrary to any such order or prohibition shall be liable in a penalty not exceeding *Twenty Shillings*, or to be imprisoned, till payment of the said penalty, for a period not exceeding *Thirty Days*.

98.
Signs and Sign-boards may be regulated, and Strands, Stalls, &c. encroaching on Streets, prohibited.

- And be it Enacted, That in all prosecutions under this Act it shall
- 40 and may be lawful to proceed to try offences in the easiest and most expeditious manner, without the pleadings or evidence being reduced into writing, and the confession of the party, or the evidence of *One* or more credible witnesses, shall be sufficient to found a conviction: Provided always, That a record shall be preserved of the charge and

99.
Prosecutions under this Act to be summary, and Evidence of One Witness to be sufficient to found Conviction.

of the judgment, including the names of the witnesses examined on oath, unless where the accused pleads guilty, which shall be made to appear; and such record shall also set forth, if the prosecutor or accused party desire it, any offer or proof made by either of those parties and refused to be admitted, and likewise, if so desired, any objections to the admissibility of evidence sustained or repelled by the Court, which record shall be in the form contained in the Schedule marked (K.) hereunto annexed; and the Judge so trying any such offence shall preserve a note of the evidence taken by him on such trial, and shall exhibit the same, or a certified copy thereof, in case it shall be required in the Court of Justiciary.

100.

All Warrants for Imprisonment for Penalties, or till Caution found, to specify period at which person shall be liberated, though Penalties not paid or Caution found.

And be it Enacted, That all Warrants granted under this Act for Imprisonment till payment of penalties, or till caution shall be found, shall specify a period not exceeding the respective periods hereby prescribed at the expiry of which the person sentenced shall be discharged, notwithstanding such penalty shall not have been paid or caution found: Provided always, That a copy of every such Warrant of Imprisonment, certified by the Clerk, shall be deemed a sufficient Warrant of Commitment.

101.

No suspension competent to prevent payment or consignation of Penalties, and no Action to be competent against Judge under this Act, unless brought within Three Months, and on the ground of corruption or oppression.

And be it Enacted, That it shall not be competent to any Judge or Court to grant any sist or suspension of any decree or warrant granted by any Judge officiating under this Act, or so as to prevent immediate payment or consignment of the sum or sums found due and decerned for by such decree or warrant in the hands of the Clerk of the Court; and no action shall be competent against such Judge officiating under this Act for any thing done in the execution of this Act, unless actual corruption or oppression be charged, nor shall such action be competent after Three calendar Months after the act complained of is committed.

102.

Summary pointing for Fines to be without prejudice to recovering them by ordinary Forms; but where resorted to, same Regulations to be observed as in pointings for Assessments.

And be it Enacted, That wherever authority is given by this Act to recover any costs, expenses or damages, or any fines, penalties or other sums summarily by pointing at the instance of the said Procurator Fiscal, such costs, expenses or damages, and such fines, penalties or sums may, if not otherwise provided, be recovered in the same manner and subject to the same rules in and under which the assessments lievable under this Act are directed to be recovered, but without prejudice to such costs, expenses or damages, fines, penalties or other sums being recovered by the ordinary forms of law.

103.

Nothing in this Act to exclude jurisdiction of Sheriffs or other Judges, except in so far as their jurisdiction expressly abolished.

And be it Enacted, That nothing herein contained shall be held to affect or exclude the jurisdiction of the Sheriffs, or the Sheriff-substitutes of Counties within which any such Burgh or Town is situated, or of other Judges or Magistrates, except in so far as the jurisdiction of such Magistrates is hereby expressly abolished.

And

104.

Magistrates
and Council
may sue and
be sued in
name of Town
Clerk or Treas-
urer.

And be it Enacted, That the Magistrates and Council of any of the said Burghs or Towns shall and may respectively sue and be sued in the name of the Town Clerk or Treasurer for the time being: Provided always, That such Town Clerk or Treasurer shall not thereby incur any
5 personal responsibility for expenses or otherwise, and that no action so raised or directed shall fall by reason of such Town Clerk or Treasurer dying or ceasing to hold office.

105.

Rights to
heritable Prop-
erty may be
taken to
Town Clerk,
in certain
Form.

And be it Enacted, That the rights to all heritable property to be acquired for the purposes of this Act may be taken in favour of the
10 Town Clerk for the time and his successors in office, and the deed or writing constituting such right may be in the following form:

“ I, A. B. in consideration of

paid to me, [or, in consideration of the feu duty or annual rent of agreed to be paid to me yearly
15 or half-yearly, as may be agreed on] by the Magistrates and Town Council of the Burgh or Town of do hereby dispone and convey to as Town Clerk of the said Burgh or Town, and his successors in office for behoof of the said Magistrates and Town Council, all
20 [describing the premises conveyed], and all my right, title and interest in the same, to be holden by the said Magistrates and Town Council, and their successors for ever, by virtue of an Act of Parliament made in the year of the reign of His Majesty King WILLIAM the Fourth, intituled, ‘ An Act to provide for the Appointment and Election of Magistrates and Councillors in certain Burghs of Regality and Barony and unincorporated Towns in Scotland.’ In witness whereof I have
25 subscribed these presents, written by at this day of in the year of our Lord before these
30 witnesses [here insert the witnesses’ names and designations].”

Which deed or writing being registered in the General or Particular Register of Sasines (and which the respective keepers of the registers are hereby authorized and required to register on the same being
35 presented to them), shall receive the same effect, and be as valid and effectual to vest the property in the said Magistrates and Council and their successors in office as if a formal disposition had been executed in their favour, and followed by sasine according to the form of the law of Scotland, recorded of the same date that the said deed or writing is
40 recorded, any law or practice to the contrary notwithstanding.

106.

Money may
be borrowed
for the pur-
poses of this

And be it Enacted, That it shall be lawful for the Magistrates and Council of any of the said Burghs or Towns from time to time to borrow
140. money

Act, on security of the Assessments.

money for carrying into effect the purposes of this Act, and to assign the Rates or Assessments hereby authorized to be levied in security of the repayment of the same, provided that the Rates and Assessments shall not be assigned for a period exceeding Years; and that no money shall be borrowed, and no such assignation shall be granted till after a report has been obtained from a Committee of the Council appointed for that purpose, stating the reasons which render such loan or assignation necessary or expedient, the amount proposed to be borrowed, and the purposes to which the money so to be raised is to be applied, which report shall be approved of by *Two-thirds* of the whole Council for the time by an Act of Council passed at a meeting of such Magistrates and Council, such meeting having been called by notice specifying the object of the meeting, and such notice, printed or legibly written, shall be affixed in the Town Clerk's office, or on the doors of the Council-chamber, Town-hall or Court-house, and other conspicuous public places within the said Burgh or Town, for *One Month* at least previous to such meeting; and such Act of Council shall in like manner be affixed in the Town Clerk's Office and on the doors of the Council-chamber, Town-hall, Court-house and other conspicuous public places within the said Burgh or Town as aforesaid: Provided always, That all such loans and assignations shall be null and void unless such notice and publication shall have been so given and made.

107.
Form of
Bonds for
Money borrowed on security of
Assessments.

And be it Enacted, That all Bonds for money to be borrowed on the security of the said Rates or Assessments shall be signed by the said Treasurer and the Town Clerk in presence of at least *Two* members of Council, who shall sign as witnesses thereto, and such Bonds shall be in the following form; (videlicet)

“ Number [here state the number.]

“ BY virtue of an Act made in the year of His Majesty King WILLIAM the Fourth, intituled, ‘An Act to provide for the Appointment and Election of Magistrates and Councillors in certain Burghs of Regality and Barony and unincorporated Towns in Scotland,’ We, A. B., Treasurer for the Burgh or Town of and C. D. Town Clerk of the said Burgh or Town, and by authority of the Magistrates and Council of the said Burgh or Town, in consideration of the sum of [here insert the sum in words], instantly advanced and paid to me, the said A. B., as Treasurer aforesaid, for the purposes of the said Act, by E. F., do hereby bind and oblige the said Magistrates and Council for the time being, to repay to the said E. F., his heirs, executors or assignees at the term of [here insert the term of payment], the said sum of [here state the sum], with the interest thereof [here specify whether the interest is to be paid yearly or half yearly, and at what terms], at the rate of [here insert rate

rate of interest] per centum per annum, from the date hereof till payment of the said principal sum; and for the further security of the said E. F., we do hereby assign to him, his heirs, executors and assignees, such proportion of the monies to be raised by the annual assessments authorized to be imposed and levied by the said Act as shall be equivalent to the said sum now paid to me the said A. B., as Treasurer aforesaid, and the interest to become due thereon as aforesaid; and we consent to the registration hereof in the Books of Council and Session, or other books competent, for preservation, and that all competent diligence may pass hereon in form as effeirs, and thereto constitute

our Procurators. In witness whereof we have subscribed these presents, written by _____ at _____ this _____ day of _____ in the year _____ of our Lord _____ before these witnesses,

H. I., Councillor, witness.

A. B., Treasurer.

K. L., Councillor, witness.

C. D., Town Clerk."

And such Bonds respectively shall, on being recorded as after mentioned, form a real lien on the Rates or Assessments authorized to be imposed and levied under this Act and assigned by such Bond, and shall entitle the Creditor under the same preferably to recover the sums thereby due from the respective Magistrates and Councils of the said Burghs or Towns and their Officers out of the first and readiest of the rates or assessments assigned; and no Member of Council or Officer acting under them shall be personally liable for the repayment of any money so borrowed.

And be it Enacted, That such Bonds may be assigned by indorsation on the back thereof respectively, in the following form; (videlicet)

108.
Bonds may be assigned by indorsation.

" I, E. F., do transfer this Bond, with all right, title and interest which I have in the same, to M. N., his heirs, executors and assignees. In witness whereof, I have subscribed these presents written by _____ at _____ the _____ day of _____ before these witnesses,

O. P., Witness.

Q. R., Witness.

E. F."

And be it Enacted, That before such Bonds shall be delivered to the Creditor, or shall form a valid lien on the rates or assessments as aforesaid, the same shall be recorded in the sederunt book of the Magistrates and Council of the Burgh or Town, and a certificate of such registration shall be indorsed on such Bond and signed by the Town Clerk; and such

109.
Bonds and Assignations shall be registered.

Assignations shall be notified to the said Treasurer and Town Clerk, the latter of whom shall enter in the said sederunt book the date of the said Assignment, the names of the parties thereto, the number of such Bond and the interest outstanding on the same, and the certificate of such entry shall be indorsed on the said Bond and signed by the said Treasurer and Town Clerk; and thereafter but not till then, the assignee, his heirs and executors, shall be entitled to the full benefit of such Bond.

110.
Sinking Fund
to be pro-
vided where
Money bor-
rowed.

And be it Enacted, That in all cases where money shall be borrowed for the purposes of this Act on the security of the said rates and assessments, the Magistrates and Councils of the said respective Burghs or Towns are hereby authorized and required, at fixing the first annual assessment to be levied under this Act after such borrowing, to impose such additional assessment beyond the sum which would otherwise be necessary for the purposes of this Act, as will produce a Sinking Fund amounting to *Five* per centum per annum upon the sums so borrowed, which sum of *Five* per centum per annum the said respective Councils shall annually appropriate, set apart and invest, at the highest rate of interest which can be had for the same, in the public funds, or in any of the chartered banks in Scotland, or on heritable security, to be applicable and to be applied by the said Council from time to time in the repayment of the money borrowed until the debt shall be extinguished: Provided always, That such additional assessment shall not increase the whole assessment in any one year beyond the foresaid maximum rate and assessment allowed to be imposed and levied by this Act; and provided further, That it shall not be lawful for the said respective Councils to borrow any money except where such Sinking Fund can be appropriated and set apart without the said maximum rate and assessment being exceeded.

111.
Treasurer to
keep regular
Books, which
are to be
examined and
docqueted
half-yearly.

And be it Enacted, That the Treasurer of each of the said Burghs or Towns shall keep a regular Cash Book and Ledger relative to the affairs of such Burgh or Town, which Cash Book shall be examined half-yearly, at the terms of Candlemas and Lammas, by a Committee of the Council to be appointed for that purpose, and shall be docqueted by such Committee and by the Treasurer; and the said Ledger shall be examined and docqueted in like manner at the term of Lammas yearly; and the said Cash Book and Ledger, when so docqueted, shall be held to form part of the records of the said Burgh or Town.

112.
Treasurer to
make up State
of his Intro-
missions
annually.

And be it Enacted, That the said Treasurer shall, within *One Month* after the term of Lammas annually, make up a distinct account, ending as at that term, of his intromissions for the past year, which account shall be arranged in the form of charge and discharge, and each part thereof divided under proper heads, and shall, on or before the *Fifteenth*

teenth day of September annually, be examined and docqueted by a Committee of the Council, to be appointed for that purpose.

And be it Enacted, That after the Treasurer's Accounts and Books have been made up and docqueted as aforesaid, the said Town Clerk shall, on or before the *First day of October*, annually, prepare a complete and distinct State, showing, first, the whole common good and other property of the Burgh or Town, classed under different heads; secondly, the different debts due to and by the Burgh or Town, distinguishing the nature of such debts as heritable or moveable, and specifying the securities held for the same, and the cautionary obligations (if any) granted relative thereto; thirdly, the amount of each branch of the annual revenue, distinguishing how much has been received, and how much is in arrear, and the year for which such arrears are outstanding, and showing also what abatements, if any, have been given; fourthly, the amount of all sums received during the year, from whatever sources, distinguishing whether such sums have been received as loans, prices or otherwise; fifthly, all sums paid, and all sums due and unpaid, during the year, distinguishing the fixed or ordinary from the casual or incidental expenditure; and the said State shall be examined by a Committee of the Council, to be appointed for that purpose, and docqueted by such Committee and by the Town Clerk; and an abstract of the said State shall be immediately prepared by the Town Clerk, and after being approved of by a Minute of Council, a copy thereof shall, on or before the *Tenth day of October*, annually, be affixed to the door of the Town House, if there be such, and upon the doors of the Parish Church or Churches within which each Burgh or Town, or any part thereof, is situated; and if the revenue of such Burgh or Town exceed *One hundred Pounds* annually, the said abstract shall, besides being so published, be printed on or before the said *Tenth day of October*, annually, and a copy thereof delivered gratis at the Town Clerk's Office to any qualified Elector who shall demand the same: Provided always, That the said whole Books, States, Accounts and Abstract, with the whole vouchers thereof, shall lie in the Town Clerk's Office from and after the said *Tenth day of October*, annually, for the space of *Three* calendar Months, open to the inspection of all persons liable to be assessed under this Act, without the payment of any fee; and such Books, Accounts and Vouchers shall, at all other times, be exhibited to any such person demanding the same, on payment of a fee not exceeding *Two Shillings and Sixpence* per Hour, payable to the person having the lawful custody of such Books, Accounts and Vouchers for the time.

113.
Town Clerk
annually to
prepare State
of whole Pro-
perty and
Debts, &c.,
to be pub-
lished.

And be it Enacted, That separate books and accounts of all trusts, mortifications and endowments of which the Magistrates, or the Magistrates and Council of any Burgh shall be the trustees or mana-

114.
Separate
Books and
Accounts of
Trusts to be
kept.

gers, or which shall in anywise be committed to their charge, or where the Magistrates and Councillors form a majority of the Trustees, shall be kept, showing the property, revenue and expenditure of the trust.

115.
Trust-Books
to be balanced,
and state of
Fund to be
made up an-
nually.

And be it Enacted, That such separate trust-books shall be brought to a balance within *Fourteen Days* after the term of Lammas in each year; and before the *First day of October*, annually, a State of the trust-property shall be prepared by the Town Clerk, or other person having the charge of the books and accounts of the trust, exhibiting, as nearly as may be, the several particulars hereinbefore directed to be contained in the state of the property of the several Burghs required to be prepared by the respective Town Clerks, before the *First day of October* annually, and if the trusts shall be for purposes of education or charity, the state shall set forth the manner in which the estate has been administered and applied; and in cases where the annual income exceeds *One hundred Pounds*, an abstract shall be prepared, published and exhibited in the same manner as is prescribed in regard to the abstract of the state of the affairs of the Burgh; and the books and accounts of the trust shall be open for inspection, and for the like time as hereinbefore provided in regard to the books and accounts of the Burgh; and the Town Clerk or other officer in charge of the books and accounts of the trust shall, for any wilful failure or neglect in performance of the duties hereby imposed upon him, be subject and liable to a penalty of not less than *Fifty Pounds*.

116.
Magistrates to
make declara-
tion of Trusts.

And be it Enacted, That where any trust-fund is vested in the names of any Magistrates or Councillors, or in the name of any individual Magistrate or Councillor, such Magistrates or Magistrate, Councillors or Councillor, shall subscribe a declaration of trust in the Council-books of the Burgh in relation to such trust-fund, and declaring the purposes and conditions for and on which they or he hold or holds the same.

117.
Valuation of
Burgh Pro-
perty.

And be it Enacted, That within *Twelve Months* after the passing of this Act, and *Once* in every Seven Years thereafter, the Magistrates and Council of every such Burgh or Town shall cause the whole of the lands, heritages and moveable property of every description thereto belonging to be valued by skilful persons, whose estimation thereof shall be formed upon the worth of such property at the time and according to the price which it would then bring in the market if sold, and without reference to any prospective or contingent value not influencing such property at the time; and the Valutors employed shall make up a state of the value of all such properties under distinct and appropriate heads, and such state shall be entered in the Council-books of the Burgh or Town by the Town Clerks thereof within *One Month* after such valuation shall have been made; and if the Magistrates and Councillors

Councillors in office when such valuation is required to be made shall fail to cause the same to be made, they shall each be individually liable in a penalty of not less than *Fifty Pounds*, and if any Town Clerk of any Burgh or Town shall fail to enter the same in the Council-
 5 books within the time hereinbefore prescribed, he shall be liable in a penalty of *Fifty Pounds*.

And be it Enacted, That it shall not be lawful for the Magistrates and Council of any Burgh or Town to sell or alienate all or any part of the lands or heritages belonging to the same by sale or excambion,
 10 or to borrow any money upon the credit of the heritable property of the Burgh or Town, unless previous to such Alienation or Borrowing, the same shall have been agreed to by *Two-third* parts of the whole Magistrates and Council thereof, by an Act of Council passed at a meeting of such Magistrates and Council, such meeting having been
 15 called by notice, specifying the lands or heritages proposed to be alienated, and the amount of the money proposed to be borrowed, and the reasons which render such Alienation or Borrowing necessary or expedient; and such notice printed or legibly written shall also be affixed in the Town Clerk's Office, and on the doors of the Council
 20 Chamber, Town Hall, or Court-house or other place where the Council are in use to meet, and upon the doors of the parish Church or Churches within which the said Burgh or Town or any part thereof is situated for *One Month* at least previous to such meeting; and such Act of Council shall in like manner be affixed in the Town
 25 Clerk's Office, and other places before specified: Provided that no sale shall be completed until *Fourteen Days* after public intimation has been given in the manner prescribed as to the aforesaid notice of the price proposed to be paid by the purchaser and to be accepted by such Magistrates and Council: Provided always, That all such
 30 Alienations and Loans shall be null and void unless such notice and publication shall have been so given and made.

118.
 Regulating
 Alienation and
 Borrowing.

Provided always, and be it Enacted, That nothing herein contained shall prevent the Magistrates and Council of any Burgh or Town from feuing or granting building leases of the lands or heritages belonging to
 35 such Burgh or Town: Provided also, That no lands shall be feued and no building leases granted for a price in a gross sum, or for a fine or grassum, but the consideration to be taken shall be in the shape of an annual feu duty or ground rent, and no leases of any heritable property, except building leases, shall be let for a longer period than
 40 *Twenty-one Years*; nor shall any lease of any of the revenues, customs or imposts of any Burgh or Town be granted for a longer period than *Three Years*, and no such leases, either of heritable property, or of revenues, customs or imposts, shall be granted, unless upon the authority of a previous Act of Council, a copy of which shall be affixed in the Town Clerk's Office, and upon the doors of the Council

119.
 Lands not to
 be feued, or
 building leases
 granted for a
 Price or Gras-
 sum.

Chamber, Town Hall or Court-house, or other place where the Council are in use to meet, and upon the doors of the parish Church or Churches within which the said Burgh or Town or any part thereof is situated, for *One Month* at least previous to granting such feus or leases; and which Act of Council shall contain a description of the lands or heritages proposed to be feued or let, and the conditions upon which such feu or lease is to be granted; and any feu or lease granted otherwise than in terms of these provisions shall be null and void. 5

120.
Exclusive pri-
vileges abo-
lished.

AND whereas in certain of the said Burghs or Towns various exclusive privileges have been conferred by charter or otherwise, whereby persons not being burgesses, heritors or feuars are prevented and excluded from dealing in trade and merchandize, or exercising trades, crafts or callings within such Burghs or Towns for gain, sale, hire or payment; BE it Enacted, That after the *passing of this Act* it shall be lawful for any person to practise or deal in any lawful trade or merchandize, and to exercise and carry on any lawful calling, trade or occupation for sale, gain, hire or payment or otherwise, within any such Burgh or Town, any law, statute, charter, usage or other right or authority to the contrary notwithstanding: Provided, that nothing herein contained shall be deemed or taken to affect any right of property or commonty, or servitude enjoyed by burgesses, heritors or feuars, within any of the said Burghs or Towns, or any immunity during the lives of existing burgesses, heritors or feuars in the payment of harbour rates or other duties, which such burgesses, heritors or feuars possessed or enjoyed before the *passing of this Act*. 10 15 20 25

121.
Penalty for
wilful Mal-
versation.

And be it Enacted, That if any Sheriff or Sheriff's Clerk, Magistrate, Councillor, Town Clerk, or other person shall wilfully contravene or disobey the provisions of this Act, he shall be liable to be sued for such offence in the Court of Session by any person aggrieved, for the penal sum of *Fifty Pounds*, which sum, or any smaller sum which may be assessed by the Jury in any such action, the Defender upon conviction shall pay with full costs of suit: Provided always, That every such action shall be raised within *Four* calendar Months after the cause of action shall have arisen, and that notice in writing shall be given to the Defender at least *One* calendar Month before raising the same: Provided also, That any such Defender against whom judgment shall have been once recovered in such action, shall be entitled to plead such judgment as a bar to any other action which may be brought against him for the same matter or thing; and such other action being thereupon dismissed, such Defender shall recover his full costs of suit. 30 35 40

122.
Three regis-
tered Electors
may prosecute
for Penalties,
&c. &c.

And be it Enacted, That it shall be lawful for any *Three* registered Electors to complain by summary petition, either to the Court of Session or the Sheriff of the County, against any person for breach of any of

of the regulations imposed by virtue of this Act, or for the enforcement of the performance of the duties or observances, or the payment of any of the penalties hereby prescribed or imposed, or to apply summarily to such Court or Sheriff as aforesaid for interdict against any wrong
 5 done or contemplated against such Burgh or Town, or community, or the property thereof; and in case no such complaint shall be made by the Electors as aforesaid, it shall be competent for the Lord Advocate of Scotland for the time being, when he shall consider it expedient for the public interest, to sue by summary application for the redress or
 10 punishment of any abuse or malversation or mismanagement which he may conceive to have taken place, and that either in the Court of Session, in his own name or through the Procurator Fiscal in the Sheriff Court; provided that every such complaint or application shall be lodged within *Three Months* of the date of the cause of complaint, and
 15 that within *Fourteen Days* thereafter the private parties so complaining shall have found caution to such amount as such Court or Sheriff may require for the payment of the costs to which such parties may eventually be subjected.

And be it Enacted, That in all prosecutions for penalties such Court
 20 or Sheriff shall award costs to the party in whose favour the decision of such Court or Sheriff shall be pronounced, and no part of any penalty, or the cost attending the prosecution for the same decerned for against the Magistrates and Council or the Office-bearers of any Burgh or Town, shall be paid from or charged against the funds
 : 25 thereof; and in all such other suits or complaints such Court or Sheriff shall have full power to decide regarding costs.

123.
Costs to be awarded in favour of the successful Party in Suits for Penalties.

And be it Enacted, That it shall be competent and lawful for any registered Elector to sist himself as Complainer or Pursuer in any suit or complaint, in concurrence with the original Pursuers or Com-
 30 plainers, or if they shall have withdrawn or become incompetent to prosecute such suit or complaint, or shall have ceased to be parties, then any other Electors, not fewer in number than *Three*, shall be entitled to prosecute such suit or complaint as Pursuers or Complainers, such new parties finding caution as aforesaid for the payment of such subsequent
 35 costs as may eventually be awarded against them.

124.
Registered Electors may sist themselves in Suits or Complaints.

And be it Enacted, That the penalties to be levied under this Act shall be applied towards the defraying the municipal and other expenses of the Burgh or Town in which the same shall be so levied.

125.
Application of Penalties.

And be it Enacted, That no irregularity or nullity in the election of
 40 any Councillors or Magistrates shall in any case after the *passing of this Act* annul or affect the election of other Councillors or Magistrates not liable to the same grounds of objection; but those par-

126.
Irregularity in the election of Councillor to affect themselves only.

particular elections only in which such irregularity or nullity shall have occurred.

127.
Meaning of
certain Words
in this Act.

And be it Enacted, That the word "Sheriff" shall be held to include the word "Stewart," and "Sheriff Substitute" and "Stewart Substitute;" and that the words "Shire" or "County" shall be held to include the word "Stewartry;" and the words "Sheriff Clerk" shall be held to include the words "Stewart Clerk," and "Sheriff Clerk Depute" and "Stewart Clerk Depute;" and the words "Town Clerk" shall be held to include the words "Town Clerk Depute," unless it be otherwise provided, or the subject-matter or context be repugnant to such construction; and that no misnomer or inaccurate description of any person or place, in any writing made in the form of any Schedule to this Act annexed, or in any description, list, register or notice, or other writing, made under the authority of this Act, shall in any way prevent or abridge the operation of this Act; provided that such person or place shall be so designated in such writing, description, list, register or notice as to be commonly understood: Provided also, That no appeal shall be competent to any Sheriff or Stewart from any thing which may be done by their Substitutes in the execution of this Act.

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128.
Acts inconsis-
tent with this
Act repealed.

And be it Enacted, That all laws, statutes and usages now in force in relation to any of the aforesaid Burghs or Towns, in so far as inconsistent or at variance with the provisions of this Act, shall be and the same are hereby Repealed: Provided always, That the same shall in all other respects be of full force and effect.

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129.
Act may be
altered.

And be it Enacted, That this Act may be repealed, altered or amended by any Act or Acts to be passed in the present Session of Parliament.

SCHEDULES

REFERRED TO IN THE FOREGOING ACT.

SCHEDULE (A.)

FIRST CLASS.

Alloa	-	-	-	-	-
Cotton	-	-	-	-	-
Crieff	-	-	-	-	-
Dalkeith	-	-	-	-	-
Dunblane	-	-	-	-	-
Girvan	-	-	-	-	-
Hawick	-	-	-	-	-
Johnston	-	-	-	-	-
Kelso	-	-	-	-	-
Kirkintilloch	-	-	-	-	-
Kirriemuir	-	-	-	-	-
Maybole	-	-	-	-	-
Old Aberdeen	-	-	-	-	-
Strathaven	-	-	-	-	-

Three Bailies (one of whom shall be elected Senior or Chief Magistrate), a Treasurer, and *Eleven* Councillors.

Note.—Old Aberdeen to have a Provost.

SCHEDULE (B.)

SECOND CLASS.

Auchterarder	-	-	-	-	-
* Bathgate	-	-	-	-	-
Beith	-	-	-	-	-
Borrowstounness	-	-	-	-	-
Coldstream	-	-	-	-	-
Cumnock (Old)	-	-	-	-	-
Denny	-	-	-	-	-
Dunse	-	-	-	-	-
Fraserburgh	-	-	-	-	-
Galashiels	-	-	-	-	-
Galston	-	-	-	-	-
Grangemouth	-	-	-	-	-
Huntly	-	-	-	-	-
Keith	-	-	-	-	-
Kilsyth	-	-	-	-	-
Kincardine (Perthshire)	-	-	-	-	-
Largs	-	-	-	-	-
Lerwick	-	-	-	-	-
* Macduff	-	-	-	-	-
* Maxwelton	-	-	-	-	-
Newton-upon-Ayr	-	-	-	-	-
Newmilns (Ayrshire)	-	-	-	-	-
* Pollockshaws	-	-	-	-	-
Saltcoats	-	-	-	-	-
Stewarton	-	-	-	-	-
Stonehaven	-	-	-	-	-
Stornoway	-	-	-	-	-
Stromness	-	-	-	-	-
Thurso	-	-	-	-	-

Two Bailies (one of whom shall be elected Senior or Chief Magistrate), a Treasurer, and *Nine* Councillors.

Note.—The Burghs or Towns marked thus *, to have a Provost.

SCHEDULE (C.)

THIRD CLASS.

Aberfeldie	-	-	-	-	-
Abernethy	-	-	-	-	-
Alyth	-	-	-	-	-
Ardrossan	-	-	-	-	-
Balfron	-	-	-	-	-
Ballantrae	-	-	-	-	-
Blairgowrie	-	-	-	-	-
Bowmore	-	-	-	-	-
Buckhaven	-	-	-	-	-
Buckie	-	-	-	-	-
Callander	-	-	-	-	-
Campbeltown (Inverness-shire)	-	-	-	-	-
Carlisle	-	-	-	-	-
Carnwath	-	-	-	-	-
* Castle Douglas	-	-	-	-	-
Catrine	-	-	-	-	-
Ceres	-	-	-	-	-
Clackmannan	-	-	-	-	-
Comrie	-	-	-	-	-
Coupar-Angus	-	-	-	-	-
Creetown	-	-	-	-	-
Dalbeattie	-	-	-	-	-
Dalmellington	-	-	-	-	-
Dalry (Ayrshire)	-	-	-	-	-
Darvel	-	-	-	-	-
Douglas	-	-	-	-	-
Doune	-	-	-	-	-
Dunkeld	-	-	-	-	-
Dunoon	-	-	-	-	-
Eyemouth	-	-	-	-	-
Ferry-Port-on-Craig	-	-	-	-	-
Fochabers	-	-	-	-	-
* Gatehouse of Fleet	-	-	-	-	-
Gourock	-	-	-	-	-
Kennoway	-	-	-	-	-
Kilbarchan	-	-	-	-	-
Kilmaurs	-	-	-	-	-
Kilwinning	-	-	-	-	-
Kinross	-	-	-	-	-
Langholm	-	-	-	-	-
Laurencekirk	-	-	-	-	-
Lennoxtown of Campsie	-	-	-	-	-
Leslie	-	-	-	-	-
Letham	-	-	-	-	-
Leven	-	-	-	-	-
Limekilns	-	-	-	-	-
Linktown (Fifeshire)	-	-	-	-	-

Two Bailies, (one of whom shall be elected Senior or Chief Magistrate,) a Treasurer, and *Six* Councillors.

Note.—The Burghs or Towns marked thus *, to have a Provost.

(55)

Schedule (C.) Third Class—continued.

Lochwinnoch	-	-	-	-
Lockerbie	-	-	-	-
Markinch	-	-	-	-
Mauchlin	-	-	-	-
Melrose	-	-	-	-
Minnyhive	-	-	-	-
Moffat	-	-	-	-
Muirkirk	-	-	-	-
Muthill	-	-	-	-
Newton-Stewart	-	-	-	-
Ochiltree	-	-	-	-
Old-Meldrum	-	-	-	-
Port-Patrick	-	-	-	-
Portsoy	-	-	-	-
Rosehearty	-	-	-	-
Saint Monance	-	-	-	-
Stevenston	-	-	-	-
Strathmiglo	-	-	-	-
Tarbolton	-	-	-	-
Thornhill (Dumfries-shire)	-	-	-	-
Tobermory	-	-	-	-
Tranent	-	-	-	-
Troon	-	-	-	-
Turriff	-	-	-	-
Wishaw	-	-	-	-

SCHEDULE (D.)

PART FIRST.

Burgh or Town of

I, A. B. [insert designation] hereby claim to be enrolled as a Voter for the Town Councillors of the said Burgh or Town as proprietor, or tenant or occupant of the house, shop, &c., situated in [here insert the situation of the premises described by the street, or other locality,] and [in cases where the claimant chooses to make such production] in support of my claim I produce herewith a [disposition, seisin, lease, &c., dated, &c., as the case may be.]

[Dated]

(signed) A. B.

PART SECOND.

Number lodged with me, C. D., Sheriff Clerk [or, Town Clerk, as the case may be] of this day together with the disposition, seisin, lease, &c., above written [in cases where any such documents are lodged.]

(signed) C. D.

SCHEDULE (E.)

Burgh or Town of

I, A. B. [or, we, C. D., E. F., &c.] object to the claim of A. B. to be admitted [or to continue on the roll] as a Voter for Councillors in the Burgh or Town of ; on the following ground [here may be stated shortly the grounds, as that property or occupancy not of sufficient value, that the party is not or has ceased to be a proprietor, or tenant and occupant, or is personally disqualified, as being a minor, a fatuous person, &c.]; and I crave to be heard on the said objection or objections before the Sheriff or Substitute, or Chief Magistrate or Assessor [as the case may be].

[Date]

(signed) A. B.

Lodged the day of

G. H., Sheriff Clerk,

or

I. K., Town Clerk, [as the case may be.]

SCHEDULE (F.)

FORM OF REGISTER TO BE KEPT BY TOWN CLERK.

No.	Date.	Name.	Calling.	Proprietor or Tenant.	House, Warehouse, Shop, &c.	Street, Lane or other Place of Residence.	Parish.

SCHEDULE (G.)

[Place and Date.]

To the Sheriff of the County of

We, a majority in number of the registered Electors of the Burgh or Town of _____ do hereby desire you to declare that the said Burgh or Town has adopted the provisions of an Act passed in the _____ year of the reign of His Majesty King WILLIAM the Fourth, intituled, "An Act [insert the title of this Act], and to take the necessary steps required by the said Act for placing the said Burgh or Town under and subject to the same.

(signed)

[By a majority of the qualified Electors.]

SCHEDULE (H.)

I, A. B., do solemnly swear [or, affirm], that I am the individual described in the List or Roll of Electors for the Burgh or Town of _____ as A. B. of [here insert description in the same words as contained in the Roll], that I am still the Proprietor [or, Occupant, or, Tenant], of the Property for which I am so enrolled, and hold the same for my own benefit, and not in trust for or at the pleasure of any other person, and that I have not already voted at this election.

SCHEDULE (I.)

I, A. B., do solemnly swear [or, affirm], that I have not received or had by myself, or any person for my use or benefit, any sum or sums of money, office, place or employment, gift or reward, or any promise or security for any money, office or gift, in order to give my vote at this election.

SCHEDULE (K.)

I. COMPLAINT.

Unto the Magistrates of the Burgh or Town of
The Complaint of A. B., Procurator Fiscal of the said Burgh, [or
other party with his concurrence.]

Humbly sheweth,

That C. D. has been guilty of the crime [or, offence] of Theft [or,
other crime or offence] actor or art and part, in so far as [here state the
particulars of the crime or offence, specifying as nearly as may be the
time and place where it was committed, and also specifying that the
money or the value of the articles stolen, resetted, or obtained by false-
hood, fraud and wilful imposition, where these crimes are charged, did
not exceed Ten Pounds.]

May it therefore please your Honors to grant Warrant to apprehend
the said C. D. and bring him before you, [or, to cite him to appear
before you], to answer to this Complaint, and thereafter to [here specify
what is concluded for].

According to Justice.

A. B.

II. DELIVERANCE ON COMPLAINT.

[Place and Date.]

Grants Warrant to officers of Court to apprehend the before designed
C. D., and to bring him [or, to cite him to appear] to answer to the
foregoing Complaint, on the day of at
of the clock , and also grants Warrant to cite witnesses for
both parties.

[When stolen goods or the like are to be searched for, this will be
included in the Complaint and Warrant.]

E. F.

III. PROCEDURE.

[Place and Date.]

Compeared the said C. D., and the Complaint being read over to
him, he answers, that

C. D.

E. F.

[If

[If it be thought necessary to adjourn the diet]

Adjourns the diet to the day of at of
the clock , and in the mean time grants Warrant to incarcerate
the said C. D. in the Tolbooth of to be detained
till that time [or, until he finds caution to appear at all future diets of
Court, under a penalty of Pounds, being not greater than the
penalty for which he would be liable if convicted.]

E. F.

[Place and Date.]

Compeared the said C. D.

The following witnesses were examined upon oath in support of the
Complaint, videlicet,

G. H.

I. K.

And the following witnesses were examined on oath in exculpation,
videlicet,

L. M.

N. O.

IV. SENTENCE.

Finds
and therefore [here add the terms of the sentence.]

(signed) E. F.

Burghs of Barony (Scotland.)

A

B I L L

To provide for the Appointment and Election
of Magistrates and Councillors in certain
Burghs of Régality and Barony, and unincorporated Towns in Scotland.

(*Prepared and brought in by*
Sir Andrew Leith Hay and Sir Henry Parnell.)

Ordered, by The House of Commons, to be Printed,
22 March 1837.



A

B I L L

[AS AMENDED BY THE COMMITTEE]

To provide for the Appointment and Election of Magistrates and Councillors in certain Burghs of Regality and Barony, and unincorporated Towns in *Scotland*.

[N. B.—The Clauses marked (A.) to (H.) were added by the Committee.]

WH E R E A S there are various Burghs of Regality and Burghs of Barony, and considerable unincorporated Towns in *Scotland*, which have no Municipal Government, or no adequate efficient Municipal Government, and it is expedient that a remedy should be provided in such cases; **B**E it therefore Enacted, by The K I N G 's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the first Tuesday in November One thousand eight hundred and Thirty-eight, there shall be in each of the several Burghs or Towns contained in the Schedules marked (A.), (B.) and (C.) respectively and hereunto annexed, by or on behalf of which the respective sums after-mentioned shall be paid or contributed, and which shall adopt the provisions of this Act in manner hereinafter mentioned, the number and description of Magistrates and Councillors annexed to the name of each such Burgh or Town in the said several Schedules.

Preamble.

1.
Number of Councillors and Magistrates in each Burgh.

2.
Galashiels to be in Selkirkshire, and Coupar-Angus in Perthshire.

Provided always, and be it Enacted, That for the purposes of this Act, the whole of the Burgh or Town of *Galashiels*, as the same may be described and bounded under the authority of this Act, shall be deemed and taken to be within the County of *Selkirk*, and in like manner the whole of the Burgh or Town of *Coupar-Angus* shall be deemed and taken to be within the County of *Perth*, and it shall be competent and lawful for the Sheriffs and Sheriff Clerks of the said two Counties respectively within which the said Burghs or Towns of *Galashiels*

shields and *Coupar-Angus* respectively are hereby declared to be situated, to exercise the jurisdictions and powers, and to perform the duties by this Act conferred and imposed upon Sheriffs and Sheriff Clerks.

CLAUSE (A.)
Burghs to contribute towards Expenses of ascertaining Boundaries.

And be it Enacted, That the Boundaries of every such Burgh or Town shall be ascertained and fixed by Commissioners to be appointed as hereinafter set forth; provided, that within Three Months after the passing of this Act there shall be paid or contributed by or in behalf of each such Burgh or Town, the respective sums following towards defraying the expenses of ascertaining and fixing such Boundaries; namely, that there shall be paid or contributed by or in behalf of every Burgh or Town contained in the Schedule marked (A.) hereunto annexed the sum of Twenty Pounds, and by or in behalf of every Burgh or Town contained in the Schedule marked (B.) hereunto annexed, the sum of Fifteen Pounds, and by or in behalf of every Burgh or Town in the Schedule marked (C.) hereunto annexed the sum of Ten Pounds; and such respective sums shall be paid to the Sheriff of the County in which each such Burgh or Town is respectively situated, and shall be accounted for by such Sheriff in his first annual public account; and such Sheriff shall grant a Receipt for the sums so paid or contributed, with a view to the repayment of the same in manner after mentioned: Provided, that in such Burghs or Towns as shall adopt the provisions of this Act, the sum or sums so paid or contributed by or in behalf of such Burghs or Towns respectively, shall be repaid to the person or persons paying or contributing the same out of the first and readiest of the assessments which shall be levied in such Burgh or Town respectively under the powers and provisions of this Act.

3.
Description of Boundaries to be fixed by Commissioners.

And be it Enacted, That on the expiration of the aforesaid period of Three Months within which such contributions are to be made, each Sheriff receiving any such contribution or contributions shall forthwith make a report thereof to His Majesty's Secretary of State for the Home Department, and within Six Months thereafter the boundaries of every such Burgh or Town contributing as aforesaid shall be ascertained and fixed by Commissioners to be named and appointed by His Majesty for that purpose; and such Commissioners shall have regard to its being the purport and meaning of this Act, that there be comprehended within the Boundaries of every such Burgh or Town the whole of the houses and buildings contiguous or adjacent thereto, or which can be held to form a part thereof, although such houses and buildings or any part thereof may be known by a different name from the name of such Burgh or Town, together with such additional space as such Commissioners shall think necessary, with a view to the future probable extension thereof; and such Commissioners shall, upon such Boundaries being so ascertained and fixed, report the same to His Majesty's Privy Council, who shall cause such Report to be published by Royal Proclamation

mation in the Gazette, and such Boundaries being so fixed, reported and published, shall be held and taken to be a part of this Act, in the same manner and to the same effect as if the same were particularly set forth and enacted herein.

5 And be it Enacted, That the right of electing the Councillors in each of the said several Burghs and Towns which shall have adopted the provisions of this Act, shall be in all the persons residing or personally carrying on business therein, and in such persons only, not subject to any legal incapacity, who shall for a period of not less than Twelve calendar Months next previous to the

10 or the last day of July in the said year, One thousand eight hundred and Thirty-eight, or in any future year, be in the occupancy either as proprietor, tenant or life-renter of any house, warehouse, counting-house, shop or other building within such Burgh or Town, which either separately or jointly with any other house, counting-house, shop or other

15 buildings within such Burgh or Town, or with any land owned and occupied by him, and also situated within such Burgh or Town, shall be of the yearly value of not less than Five Pounds: Provided also, That persons so resident or carrying on business shall be entitled to be registered, and to vote, if they are the true owners of such premises as are

20 hereinbefore mentioned within such Burgh or Town of the yearly value of not less than Five Pounds although the premises occupied by them should be of less yearly value than Five Pounds, and that the husbands of such owners so resident or carrying on business shall be entitled to vote either

25 in the life-time of their wives or after their death if then holding such property by the courtesy of *Scotland*: Provided also, That where any property which would enable the owner to be registered and to vote as above shall come to any person within the period of Six Months next previous to the last day of July in the said year, One thousand eight hundred

30 and Thirty-eight, or in any future year by inheritance, marriage settlement, *mortis causa* disposition, or by appointment to any place or office, such person shall be entitled to be registered on the first occasion of making up the List of Voters as hereinafter prescribed next following such succession or acquisition: Provided further, That no person

35 shall be entitled to be registered or to vote in the election of Councillors who shall have been in the receipt of parochial relief within Twelve calendar Months next previous to the last day of July in the said year, One thousand eight hundred and Thirty-eight, or in any succeeding year.

4.
Councillors,
by whom to be
elected.

40 And be it Enacted, That the premises in respect of which any person shall be deemed entitled to be registered and to vote in the election of any Burgh or Town, shall not be required to have been the same premises for the whole Twelve Months of his occupancy,

5.
Provisions as
to Premises
occupied in
succession,
and as to
joint Occu-
pants.

but may be different premises (but always of the requisite value) occupied in succession by such person: Provided always, That where such premises shall be of the yearly value of Ten Pounds or upwards, and shall be jointly occupied by more than One person, each of such joint occupiers shall be entitled to be registered and to vote, provided his share and interest in the same shall be of the yearly value of Five Pounds or upwards.

6.
Claims of
Electors,
how to be
made.

And be it Enacted, That every person claiming to be an Elector in any such Burgh or Town shall, on or before the Twenty-first Day of July in the said year One thousand eight hundred and thirty-eight, give in his claim, subscribed by himself or his agent (together with any written title or other evidence he may choose to produce along with such claim), to the Sheriff Clerk of the county within which such Burgh or Town is situated, and, if this Act shall be adopted as hereinafter specified, shall, on or before the Twenty-first day of July in any succeeding year, give in such claim and such title or other evidence to the Town Clerk of such Burgh or Town, such claim being in the form as nearly as may be of the first part of Schedule (D.) to this Act annexed, printed copies of which forms or Schedules, with the necessary blanks therein to be filled up by the claimant, every Sheriff Clerk and Town Clerk respectively is hereby required to provide and to furnish copies of the same to all applicants upon payment of the sum of Sixpence only for each copy, upon which copies all the claims to be given in shall be engrossed by the said claimants; and it shall be competent, in the said year One thousand eight hundred and Thirty-eight, to any person who has claimed to be registered as an Elector, and in every succeeding year, to any Elector for such Burgh or Town to object to any claim in manner hereinafter provided; and such Sheriff Clerk or Town Clerk respectively immediately on receiving such claim shall mark upon it the date when it was delivered to him, by filling the same up as nearly as may be in the form of the second part of the said Schedule (D.) to this Act annexed, and such Sheriff Clerk in the said year One thousand eight hundred and Thirty-eight, within Four Days after the last day for receiving such claims and after consulting with the Sheriff, and such Town Clerk in every subsequent year, within Four Days after the last day for receiving such claims, and after consulting with the Chief Magistrate of such Burgh or Town (or in case of his absence or disability, the Senior Magistrate capable of attending), shall respectively give or cause to be given intimation of all such claims by affixing on the Church doors of the several Parishes within which such Burgh or Town or any part thereof is situated, a written or printed alphabetical list containing the names, designations and places of abode of all such claimants, together with a notice specifying the place where and the day and the hour at which such claims are to be considered; which day shall not be

be less than Twenty nor more than Twenty-five Days after the last day appointed for receiving such claims ; and such notice shall also bear that any objection to such claims will be at the same time taken into consideration, provided such objections shall be lodged with the Sheriff Clerk or Town Clerk respectively, and intimated to the party objected to, by either delivering a copy of the objection to him personally or leaving the same at his dwelling-house, or transmitting it to him by post Seven Days previous to the day appointed for considering the same and deciding upon such claims, and all such objections shall be signed by the party objecting or his agent, and be drawn up as nearly as may be in the form of the Schedule (E.) to this Act annexed ; and printed copies of such forms or schedules shall be provided by each Sheriff Clerk and Town Clerk respectively, and shall be furnished to each person applying, upon payment of the sum of Sixpence for each copy, and upon these copies all the objections shall be engrossed by the objectors, and the date of lodging the same shall be marked by the Sheriff Clerk or Town Clerk thereon ; and proof of such notice of objection having been given shall be made to such Sheriff or Magistrate (and Assessor, if appointed as hereinafter mentioned) before entering upon any such objection, and no claims or objections shall be received by any Sheriff Clerk or Town Clerk after the expiration of the time hereinbefore allowed and appointed for giving in such claims or objections respectively ; and the persons claiming and the persons objecting to such claim shall have access to see such claims and objections in the Sheriff Clerk's or Town Clerk's Office respectively (as the case may be) at all seasonable hours, without payment of any fee for such inspection, and to obtain extracts or copies thereof, paying for any extract or copy of the same at the rate of Sixpence for every Seventy-two words.

And be it Enacted, That every person claiming to be registered shall at the time of lodging such claim pay a fee of Sixpence to the Sheriff Clerk or Town Clerk receiving such claim : Provided always, That the Magistrates and Councils of the said several Burghs or Towns shall pay to such Sheriff Clerk or Town Clerk respectively such further sum as shall be adequate compensation for the trouble which such Clerks may have in performing the duties hereby imposed upon them respectively.

7.
Persons registered to pay Sixpence.

And be it Enacted, That upon the day and hour appointed to consider such claims and objections in the said year One thousand eight hundred and Thirty-eight, the Sheriff Clerk of each county within which any of the said Burghs or Towns are situated shall lay before the Sheriff or Sheriff Substitute to be appointed as hereinafter mentioned, and the Town Clerk in all succeeding years shall lay before the Chief Magistrate, or, in case of his absence or disability, the Senior Magistrate capable of

8.
Claims not objected to, to be first disposed of.

attending (and Assessor, if appointed as hereinafter mentioned), the several
 claims and objections which have been received by any of the said Clerks,
 together with the titles or documents which may have been lodged along
 with any of those claims; and the said Sheriff or Magistrate (and
 Assessor, if appointed) respectively shall forthwith proceed to consider
 those claims to which no objections have been lodged, and which have
 been supported by production of a written title in the order as nearly as
 possible in which they were presented; and whenever he is satisfied that
 the title so produced does afford *prima facie* evidence of the validity of
 the claim he shall write upon the claim the word "Admit," and mark the
 same with his initials, and forthwith return the claim to the Sheriff Clerk
 or Town Clerk (as the case may be) by whom it was presented, which
 Clerk shall then enter the claimant in the books or registers of qualified
 Voters to be kept for the said Burgh or Town, in the alphabetical
 order of the Voters' names, and in the form of the Schedule (F.) to
 this Act annexed; and the said Sheriff Clerk or Town Clerk shall sign
 each entry with his initials, and each page of the register with his
 name, and shall furnish a signed copy of such entry to each Voter, or
 to any person who may require it, upon payment of the sum of Sixpence
 only for each such copy; and immediately after all the claims of this
 description which appear sufficiently established have been admitted,
 the Sheriff or Magistrate (and Assessor, if appointed) shall proceed to
 the consideration of the other claims to which no objections have
 been given in, but which have either not been accompanied by any
 written title, or where the titles produced do not appear to him to
 afford *prima facie* evidence in their favour, and that in the order of the
 dates on which they were severally presented, and shall summarily
 inquire into and examine the evidence by which the parties or their
 agents may then be prepared to support them by the examination of
 written documents, witnesses, or oath or declaration of parties, or
 otherwise, as the case may require or admit of; and when the said
 Sheriff or Magistrate (and Assessor, if appointed) is satisfied that any
 claimant has made out a *prima facie* case in support of his claim, he
 shall write upon it the word "Admit," and mark it with his initials,
 and return it to the Sheriff Clerk or the several Town Clerks as herein-
 before provided, who shall thereupon enter the claimant in the register
 in the same manner and to the same effect as is above provided as to
 admitted claims of the first description; but when the Sheriff or Magis-
 trate (and Assessor, if appointed) is not satisfied that there is a *prima*
facie evidence in support of any claim, he shall write upon it the word
 "Reject," and mark it with his initials as above, and return the same
 to the said Clerks, to be kept by them till applied for by the parties
 presenting the same, or their agents, to whom upon such application
 they shall be forthwith delivered.

And

And be it Enacted, That when the Sheriff or Magistrate (and Assessor, if appointed) has in manner aforesaid gone through and disposed of all the claims to which no objections are offered, he shall proceed to consider and hear the parties or their agents upon the several claims to which objections are lodged, and that in the order of the dates of presenting the said claims, and shall hear and receive all competent evidence which either party may produce in support of his claim or objection respectively ; and where he is satisfied that the claim is well founded, he shall write upon it the word " Admit," authenticated as above, and return it to the Clerk for registration, as in the other cases of admission already provided for ; and where he is satisfied that it is not well founded, he shall mark it with the word " Reject," and deal with it in other respects as with the rejected claims herein already provided for : Provided always, That in all cases where no party shall appear to support a claim to which objections have been lodged, it shall be rejected, upon the Sheriff or Magistrate (and Assessor, if appointed) being satisfied that a *prima facie* case has been made out in support of the objection ; and where no party shall appear to maintain his objection, the claim to which it applies shall be dealt with as if no objection had been lodged against it, and shall be admitted, if the Sheriff or Magistrate (and Assessor, if appointed) is satisfied that a *prima facie* case has been made out in support of it.

9.
Parties to be heard on objections to Claims.

And be it Enacted, That no written pleadings shall in any case be allowed in support of claims or objections ; but when the Sheriff or Magistrate (and Assessor, if appointed) shall reject any claim to which no objection has been offered, and when he shall hear parties upon any claim to which any objection has been offered, he shall make a note of the statement of fact and of the pleas founded on, and of the names of the witnesses, and shall affix his signature to the deeds, writings and other documents produced by the parties in support of such claim or objection ; and it shall not be competent to support any appeal upon any ground of fact or of law not set forth in such note of the Sheriff or Magistrate (and Assessor, if appointed), or to produce any witnesses not named in the said note, or any deeds, writings or other documents to which the signature of the said Sheriff or Magistrate or Assessor is not affixed.

10.
No written Pleadings to be allowed in support of Claims or Objections.

And be it Enacted, That the said Sheriff shall, if he find it necessary, appoint, and he is hereby authorized and empowered to appoint a Substitute or Substitutes at his discretion, and without observing the forms necessary in the appointment of ordinary Substitutes receiving salaries, to officiate and preside at the decision of all claims under this Act : Provided also, That the Chief Magistrate, or in case of his absence or disability the Senior Magistrate capable of attending, shall, if he consider

11.
Substitute or Assessor may be appointed.

it necessary, or if required by any Three persons claiming or objecting as aforesaid, previous to the day appointed for the consideration of such claims and objections, make choice of and appoint a person of the profession of the law to be an Assistant or Assessor to him, and to officiate and preside at the decision thereof and at all elections to take place under this Act, such Assessor being always an Advocate or Writer to the Signet, or a Solicitor of Supreme Courts, or a Procurator in the Inferior Courts, of not less than Three Years' standing respectively. 5

12.
Appeal to
the Court of
Review under
recited Act.

And be it Enacted, That the judgments of the Sheriff or Magistrate or Assessor granting or refusing registration shall so long as they remain unaltered be conclusive of the rights of parties claiming or objecting as aforesaid ; but if either party shall be dissatisfied with the decision of the Sheriff or his Substitute, or Magistrate or Assessor admitting or rejecting any claimant for the right of being an Elector in any such Burgh or Town, it shall be competent to such party within Five Days of the date of the decision, but not thereafter, to appeal to the Court of Review appointed by an Act passed in the second and third years of the reign of His present Majesty, intituled, " An Act to amend the Representation of the People in *Scotland*," for deciding upon appeals as to the registration of voters for Members of Parliament for the district within which such Burgh or Town may be situate, the appellant always giving notice within the time above specified to the Sheriff Clerk or the Town Clerk of such Burgh or Town and to the opposite party of such appeal, the notice to the said party being either delivered personally, left at his dwelling-place or transmitted through the Post-office, and producing to the Court of Appeal evidence of such notice before such Appeal shall be heard ; and it shall be competent for such Court of Appeal, if it shall affirm the Judgment appealed from, to find expenses due by the Appellant, and to decern for the same ; and upon production of the Judgment of such Court or an extract thereof to the Sheriff Clerk or Town Clerk (as the case may be), keeper of the list or roll of Electors of such Burgh or Town, such Sheriff Clerk or Town Clerk shall forthwith, where necessary, alter and correct such list or roll in accordance with the judgment of such Court ; and the Sheriffs acting in such Courts of Appeal shall always proceed to the consideration of Appeals under this Act immediately after they have disposed of all the Appeals under the said recited Act, and shall be entitled to add the periods of time during which they may be exclusively occupied with the said Appeals under this Act to the periods occupied with the said other Appeals, and to make the same charges for the time so occupied in their accounts in Exchequer as is by the said recited Act provided as to such other Appeals. 10 15 20 25 30 35 40

13.
Lists of Elec-
tors to be
made up.

And be it Enacted, That the Sheriff Clerks of the Counties in which such Burghs or Towns are situated shall, in the said year One thousand eight

eight hundred and thirty-eight, and the Town Clerks of such Burghs or Towns as have adopted the provisions of this Act shall, in all future years, on or before the Sixteenth day of September, make up and complete a list or roll of persons entitled to vote in the election of the Council of such Burgh or Town, who shall have been admitted as Electors by the Sheriff or by the Chief or Senior Magistrate in such Burghs or Towns respectively in manner hereinbefore directed.

And be it Enacted, That if after the boundaries of any Burgh or Town shall have been fixed, reported and published as aforesaid, and the list or roll of Electors qualified as by this Act required shall have been made up in manner hereinbefore directed, a majority of such Electors shall by a written requisition, signed by them and addressed to the Sheriff, in the form of the Schedule (G.) hereunto annexed, or to the like effect, require the Sheriff to declare that such Burgh or Town has adopted the provisions of this Act, the said Sheriff shall within Six Days after the receipt of such requisition cause intimation thereof to be made, by a notice containing a copy of the said requisition and of the names of the parties thereto subscribing, affixed upon the doors of the Parish Church or Churches within which the said Burgh or Town, or any part or parts thereof, is situated, and requiring any elector who may object thereto to the effect after mentioned, to give in his objections to the Sheriff Clerk within Fourteen Days after such intimation.

14.
Majority of qualified Electors may require Sheriff to declare the Act adopted.

And be it Enacted, That it shall be competent for any Elector, within the time so fixed by the Sheriff, but not thereafter, to give in written objections to the requisition so made to the Sheriff, upon the ground that the same is not signed by a majority of the Electors of such Burgh or Town, or that there is not a majority by reason of the Electors subscribing or some of them having ceased to hold the qualification upon which he or they was or were enrolled; and the Sheriff shall direct such proceedings thereupon as he shall think fit, and shall thereafter proceed to dispose of such application, and shall award such expenses as he may think fit against the parties preferring the requisition or objecting thereto.

15.
Objections to Requisition may be made.

And be it Enacted, That if no objections shall be given in to such requisition, or if given in the Sheriff shall find such requisition to have been duly made, he shall pronounce an Interlocutor finding and declaring that this Act and the provisions thereof have been adopted and are and shall thereafter be applicable to such Burgh or Town; and if he shall find that such requisition has not been duly made, he shall pronounce an Interlocutor to that effect, and either such Interlocutor may be submitted to the review of the Lord Ordinary on the

16.
If Requisition duly made, Act to be declared to apply.

Bills, by a Reclaiming Note to be presented within Fourteen Days after such Interlocutor, and the decision of the said Lord Ordinary shall be final and conclusive; and the Interlocutor of such Sheriff or Lord Ordinary, as the case may be, finding that the requisition has been duly made, and the Act adopted shall be registered in the Sheriff Court Books, and be intimated by a copy thereof being affixed on the doors of the Church or Churches of the Parish or Parishes within which such Burgh or Town, or any part thereof, is situated, within Ten Days after the date thereof, and shall also be published in the Edinburgh Gazette as soon as may be after such date, and being so published this Act shall thereafter be applicable and shall comprehend and apply to such Burgh or Town to all intents and purposes; and the expenses attending such requisition shall, if the Act shall not be adopted, be paid by the requisitionists; and if the Act shall be adopted, such expenses shall be paid by the Burgh or Town.

17.
Roll of Electors may be made up and requisition renewed in future years.

And be it Enacted, That if any Burgh or Town shall not have adopted the provisions of this Act during the said year One thousand eight hundred and Thirty-eight, it shall be competent for any Ten or more persons on the list or roll of Electors of such Burgh or Town retaining their qualification, at the distance of not less than Two Years thereafter, to apply to the Sheriff to have the list or roll of Electors made up of new or completed; and it shall be lawful for a majority of the Electors in such completed list to apply to the Sheriff, by requisition as aforesaid, to declare the provisions of this Act adopted in such Burgh or Town; and the Sheriff shall thereupon follow forth the proceedings hereinbefore prescribed in relation to requisitions for the like purpose; made during the said year One thousand eight hundred and Thirty-eight, and the Interlocutor of the Sheriff shall be subject to review as aforesaid, and if the Sheriff or Lord Ordinary, as the case may be, on any such occasion shall find that a majority of the Electors have subscribed such requisition, then the other proceedings hereinbefore prescribed shall be followed out, and the provisions of this Act shall come into operation in such Burgh or Town, and Councillors shall be chosen on the first Tuesday of November thereafter, and Magistrates shall be elected and the other proceedings be adopted in manner hereinafter prescribed in relation to such Burghs or Towns as shall adopt the provisions of this Act, during the said year One thousand eight hundred and Thirty-eight; and if the Sheriff or Lord Ordinary, as the case may be, shall, on any such occasion, find that a majority of the Electors have not subscribed such requisition, it shall be competent, at the distance of not less than Two Years thereafter, to renew such application, requisition and proceedings; and in all such cases the Sheriff shall decide as to expenses as he shall think just.

And

And be it Enacted, That each Town Clerk in each Burgh or Town which shall have adopted the provisions of this Act, shall in every succeeding year keep his List or Roll of Electors in the Town Clerk's Office or other place appointed for keeping the Records of such Burgh or Town, accessible without fee, between the hours of Ten of the clock in the Forenoon and Four of the clock in the Afternoon from the First to the Tenth day of August, and within Five Days after the last of these days any person intending to object to the continuance of any name on the said List or Roll in any such Burgh or Town shall be bound to give in his objections to such Town Clerk in the same way and manner, and with the same notice and to be disposed of by such Town Clerk and Chief Magistrate or Assessor in all respects as objections against original claims are herein directed to be disposed of, and each Town Clerk in such Burghs or Towns shall on or before the Tenth day of September in each such year proceed to correct and complete such List or Roll of Electors, by removing therefrom all the names to which such objection shall have been sustained and also the names of any persons who may have died since such List or Roll was last completed, and shall also insert in such List or Roll the names of any persons who shall respectively have been admitted as Electors of such Burghs or Towns respectively in manner hereinbefore directed; and all persons interested shall be entitled to extracts from the said Lists, paying the Town Clerk for every extract at the rate of Sixpence for every Seventy-two words contained therein.

18.
Lists to be
accessible, and
Objection may
be made.

And be it Enacted, That upon the first Tuesday of November, One thousand eight hundred and Thirty-eight, the Electors qualified and entered in the said List or Roll in each of the said Burghs or Towns contained in the Schedules (A.), (B.) and (C.) to this Act annexed respectively which shall have adopted the provisions of this Act, shall choose from among their own number the Councils of the said respective Burghs or Towns in manner following (that is to say); the Electors of each such Burgh or Town whose names shall be in the said List or Roll shall, at some place or places to be appointed by the Sheriff, of which intimation shall be made by Notice by the Sheriff-Clerk affixed on the Church doors of the Parish or several Parishes in which such Burgh or Town or any part thereof is situated Ten Days at least previous to such election, proceed to elect from and among the persons contained in the said List or Roll, such a number of Councillors for such Burgh or Town as are by the Schedules hereunto annexed, in which such Burgh or Town is placed, allotted to such Burgh or Town as the number of Magistrates and Council for such Burgh or Town respectively; by open poll, to be taken at the polling place or places appointed in each such Burgh or Town, in the presence of the Sheriff of the County, or his substitute to be appointed as aforesaid; and the Sheriff Clerks aforesaid, or the persons who may be appointed by the Sheriff to officiate

19.
Councillors to
be chosen.

as Poll Clerks thereat (which person such Sheriff is hereby authorized to appoint), shall each have with him a certified copy of the aforesaid List or Roll, containing the names of the Voters qualified in each such Burgh or Town, according to which the votes shall be taken; and it shall not be competent at such poll to inquire into 5 any other facts than the identity of the party tendering a vote, and the person mentioned in such List or Roll, his still holding the qualification then mentioned, and his not having previously voted at the same election; all which facts it shall only be competent to prove by the oath of the party so tendering his vote, if required by any other voter on 10 the List or Roll, and no other oath shall be put at such election, except only an oath against bribery, which, if required by any voter on the Roll, shall also be put by the Sheriff or Substitute at the polling place, which two oaths shall be put in the form of Schedules (H.) and (I.) to 15 this Act annexed; and the Poll Clerk shall enter each vote for each person proposed in a Poll Book, and the Sheriff or Substitute presiding at such election, and the Clerk or person taking the poll, shall subscribe their names to each page of such book before any entry shall be made in the succeeding page; and such notice, so to be issued by such Sheriff Clerk, shall also specify and set forth the Town House, or other place 20 within such Burgh or Town, where such Sheriff is to declare the result of the Election as after provided.

20.
Poll not to be
open more
than One Day.

And be it Enacted, That no Poll by this Act authorized to be taken shall be kept open for more than One Day, and that only between the 25 hours of Eight in the Morning and Four in the Afternoon.

21.
Poll Books to
be summed up
and the Result
declared.

And be it Enacted, That at all such elections of Councillors for the said Burghs or Towns, the Poll Books for the said Burghs or Towns shall, at the close of the poll, be sealed up by the Poll Clerk, and shall be delivered to the person who shall have presided at the election, who, on the next lawful day after the receipt of the same, between 30 the hours of Twelve and Two, and within the Town House or other place as aforesaid, shall openly break the seals, and, with the assistance of such persons as he may think fit to employ, shall cast up the votes given, and shall declare upon whom the election has fallen by the majority of votes, and shall forthwith give or cause to be given notice in writing to the several persons elected of such their election, and require them 35 severally to appear in the Town House or other place as aforesaid on the Second lawful day after such election, when they shall severally declare whether they accept or decline accepting the office of Councillor; and if any person so elected shall decline to accept, or in case there shall 40 be an equality of votes in favour of two or more persons, the whole of whom cannot be received as Councillors, then and in all such cases the Sheriff shall immediately appoint a new election of a Councillor or Councillors in place of him or them so declining to accept or so elected by

by equal numbers, at the distance of not more than Four nor less than Two Days, and affix notices of the day so appointed upon the doors of the Parish Church or Churches within which the said Burgh or Town, or any part thereof, is situated, and such election shall be proceeded in, in all respects, in the same manner in which the first election and the taking the poll, casting up the votes and declaring the result is hereinbefore directed to proceed, until the Council of such Burgh or Town shall be completed.

And be it Enacted, That in all the cases of election hereinbefore directed, if any person elected as Councillor shall fail to attend on the day appointed for declaring his acceptance, he shall be held to have declined accepting the said office unless he then transmit to the meeting a sufficient written explanation, signed by himself or his agent, of the cause of his absence, and intimating his acceptance.

22.
Persons elected failing to attend held to decline accepting.

And be it Enacted, That in the said year One thousand eight hundred and Thirty-eight the Sheriff Clerk of the respective Counties within which such Burghs or Towns are situated, shall immediately upon the completion of the Election of Councillors as aforesaid make up a roll of such Councillors, in the order as nearly as may be of the number of votes which each Councillor had at the said first Election of Councillors; the Councillors having the greatest number of votes standing first on the said roll, and the other Councillors having priority according to the respective numbers of votes obtained by each; and where the number of such votes is equal, then the respective Councils, after the Councillors are inducted into office, shall determine the place upon the said list or roll of such Councillors so having an equal number of votes; and the Town Clerk of such Burghs or Towns respectively shall, at each future Election, add to such roll the names of persons elected Members of Council in the same order as is hereinbefore prescribed in relation to the list or roll of Councillors to be first made up under this Act, and the seniority of the Councillors shall in all cases be determined according to their place on the said roll so made up by the Town Clerk, or so determined by the Council, in cases of equality of votes as aforesaid.

23.
Lists of Councillors to be made up.

And be it Enacted, That no person in any Burgh who is directly or indirectly by himself or any partner concerned or interested in or under any contract with, by or on behalf of such Burgh, or to which such Burgh is a party, or who holds directly or indirectly by himself or any partner any place of profit, office or employment under or in the appointment of the Magistrates and Council of such Burgh, shall be capable of being elected or of acting as a Councillor thereof while he shall hold such place of profit, office or employment, or during the

24.
Persons holding Contracts, &c. not eligible as Councillors.

subsistence of such contract; provided that no person shall be disqualified from being a Councillor by reason of his being a feuar or lessee of property belonging to such Burgh or Town, or a proprietor or shareholder of any Company which may have a contract with such Burgh, the shares of which Company are transferable by sale. 5

25.
Election of
Magistrates.

And be it Enacted, That the Councillors of the said Burghs or Towns respectively so elected and accepting shall, upon the Third lawful day after completing the election of the whole number of such Councillors in the said year One thousand eight hundred and Thirty-eight, assemble in the Town House, or other place of meeting, within such Burgh or Town, to be fixed by the Sheriff, and shall there, by a plurality of voices (the Councillor who stands first in the List or Roll of Councillors to be made up as aforesaid having a casting or double vote in case of equality), elect from among their own number the number and description of Magistrates allotted to such Burgh or Town in the said Schedule hereunto annexed, in which such Burgh or Town is placed, and also the Treasurer. 10 15

26.
Chief Magistrate in certain
Burghs to be
denominated
Provost.

AND inasmuch as in each of the Burghs or Towns of *Old Aberdeen, Macduff, Maxwelton, Bathgate, Castle-Douglas, Gatehouse and Pollockshaws*, there now is a chief acting Magistrate denominated Provost; BE it Enacted, That the Chief or Senior Magistrate in such Burghs or Towns shall continue to be so denominated, any thing in this Act or in the Schedule thereunto annexed to the contrary notwithstanding. 20

27.
Election of
Town Clerk.

And be it Enacted, That upon the completion of the first election of Magistrates and Council as hereinbefore directed, and annually thereafter, the Magistrates and Council of each such Burgh or Town respectively shall elect a Town Clerk for such Burgh or Town but for the period of One Year only, without prejudice to his re-election, and also such other officers or servants as may be necessary for conducting the business or managing the affairs of such Burgh or Town, who shall be appointed during pleasure. 25 30

28.
Quorum of
Council.

And be it Enacted, That at all meetings of Council, the presence of a majority of the whole Council shall be necessary to form a Quorum, and all questions on which a vote of the Council falls to be taken shall (where not otherwise hereby specially provided) be determined by the majority of the Council present; and where there is an equality of votes, the casting vote over and above a deliberative vote shall belong to the senior Magistrate present, and in the absence of a Magistrate to the Councillor present, whose name shall stand highest upon the foresaid List or Roll of Councillors, who shall be entitled to preside at such meetings of Council. 35 40

And

And be it Enacted, That where any trust or management is, by the terms of any public or local Act, or of any Charter or Deed of Foundation or other Deed, conferred on the present Magistrates and Council of any of the said Burghs or Towns, or where there has by any such

5 Act, Charter or Deed been devolved upon any Trustee or Trustees, Manager or Managers, Commissioner or Commissioners, or on any body or bodies, person or persons, the management and administration, control or superintendence of any property, funds, revenues, harbours, harbour-rates or other dues belonging to any of the said Burghs or

10 Towns, applicable to public purposes within any of the said Burghs or Towns, the Magistrates and Council to be elected according to the provisions of this Act shall come in place and stead of, and have the same powers and rights as belong to the existing Magistrates and Councils, or to such Trustees, Managers, Commissioners, bodies or persons; and

15 all the powers and rights of such existing Magistrates and Councils, or Trustees or others aforesaid shall thereupon cease and determine: Provided always, That in the case of any such trust or management vested in Trustees or others as aforesaid, under which such Trustees or others shall have come under any obligation or engagement, or borrowed money in behalf of such trust, such Trustees or others aforesaid

20 shall continue to administer such trust until they shall be fully relieved by such Magistrates and Council of such obligation, engagement or debt: Provided further, That where any such trust or management is conferred on any particular members of the present Council or Magistracy, or Office-bearers of any such Burgh or Town *ex officio*, the

25 Town Councils to be elected in terms of this Act shall, immediately after their acceptance and induction into office, nominate and elect from their own body such number of persons to be such Trustees or Managers as are by such Acts, Charters or Deeds appointed to those

30 offices under the said denominations; and the whole powers and functions now belonging to such *ex officio* Trustees or Managers shall belong to and be as fully vested in the persons so elected as if they had possessed the denominations used in the said Acts, Charters or Deeds, and such persons shall execute a declaration of trust, specifying the

35 purposes for which and the conditions on which they hold such trusts, in conformity with the Charters or Deeds, or Bequest or Appointments by and under which such trust is created.

29.
Magistrates
and Council
to come in
place of Trus-
tees or
Managers, &c.

And be it Enacted, That the Magistrates and Councils of the said several Burghs or Towns to be elected in terms of this Act shall, immediately

40 after their acceptance and induction into office, elect the Trustee or Trustees, Manager or Managers of any charitable or other public institution existing in or connected with such Burghs or Towns, the appointment of the Trustees or Managers of which is at present vested in the Magistrates and Council of such Burghs or Towns: And where by

30.
Election of
Managers of
Charities.

any Act of Parliament, deed of trust, bequest or mortification, any of the former Magistrates of any such Burgh or Town shall *ex officio*, under the denomination of Baron Bailie or otherwise, have been appointed Trustee or Trustees, or Manager or Managers of any such charitable or other public institution along with other Trustees or Managers, the Magistrates and Council of such Burgh or Town shall at the same time and in the like manner elect from their own body an equal number of persons to be such Trustee or Trustees, Manager or Managers, in the stead of such former Magistrate or Magistrates : And the whole powers and functions now belonging to the said offices of Trustees or Managers shall belong to and be as fully vested in the persons so elected as if they had possessed the denomination used in the said deeds, bequests or mortifications.

31.
Existing
Councils, Ma-
gistrates and
Trustees to
go out on com-
pletion of next
Election.

And be it Enacted, That upon the completion of the first election of Councillors, Magistrates and Office-bearers in the said respective Burghs or Towns under the provisions of this Act, the Provost, Magistrates, Baron Bailies, Office-bearers and Councillors now in office, and the Trustees, Managers, Commissioners, bodies and persons aforesaid in such Burghs or Towns respectively shall go out ; and their whole jurisdiction, civil and criminal, powers, duties and functions shall cease and determine, and there shall thereafter be no other Magistrates or Officers, or Trustees or others aforesaid for such Burghs or Towns than those hereby specified and directed to be elected and chosen as aforesaid ; and such Magistrates so to be elected and chosen shall possess no other or farther powers or jurisdiction than such as are conferred upon them by this Act.

CLAUSE (B.)
Certain Ma-
gistrates to be
Justices of the
Peace.

And be it Enacted, That in case the Baron Bailie, or any other Magistrate or Magistrates in any such Burgh or Town shall, *ex officio*, be a Justice or Justices of the Peace, the Provost or Chief or Senior Magistrate to be elected under the Provisions of this Act shall be *ex officio* Justice of the Peace in the place of such Baron Bailie or other presently existing Chief Magistrate, and the next Senior Magistrate or Magistrates to be elected under the provisions of this Act shall be a Justice or Justices of the Peace in place of the other presently existing Magistrate or Magistrates who are so *ex officio* a Justice or Justices of the Peace.

32.
Chief Magis-
trates to act
at future
Elections.

And be it Enacted, That in all future years and at all such future Elections, the powers, authorities and duties hereby conferred and imposed upon the Sheriffs and their Substitutes, and Sheriff Clerks or other persons to be appointed by the Sheriff to act under the provisions of this Act, regarding the receiving and disposing of claims and objections, in so far as not hereinbefore provided, and making up lists, presiding and officiating at elections, taking the poll and declaring the election,

election, and all other matters and things in relation thereto, shall be and the same are hereby conferred and imposed upon the Chief Magistrates, Assessors, Town Clerks and other persons to be elected and appointed under the provisions of this Act, according to the several and respective duties of each, to the same effect as the same are hereby conferred upon such Sheriffs, Sheriff Substitutes, Sheriff Clerks and others.

And be it Enacted, That upon the first Tuesday of November in the year One thousand eight hundred and Thirty-nine, and in every succeeding year, One-third of the whole Council of each such Burgh or Town in the Schedules (A.), (B.) and (C.) to this Act annexed shall go out of office; and in the said year One thousand eight hundred and Thirty-nine, the Third who shall go out shall consist of the Councillors who, at the first election under this Act, stand lowest upon the said List or Roll of Councillors for the present year; and in the succeeding year One thousand eight hundred and Forty, the Third of the Councillors who shall go out of office shall consist of the Councillors who at the first election under this Act stand next lowest upon the said List or Roll of Councillors; and in the year One thousand eight hundred and Forty-one, the remaining third of the Councillors chosen at the first election under this Act shall go out of office; and in every succeeding year the Third of the Councillors who shall annually go out of office shall consist of the Councillors who stand highest upon the said List or Roll: Provided always, That Councillors on going out of office shall be capable of being immediately re-elected: Provided always, That the above rotation or retiring from office shall not affect the Chief Magistrate or Treasurer until they shall have been in office for the period of Three Years, as hereinafter provided.

33.
Council how
to go out
of Office.

And be it Enacted, That upon the said first Tuesday of November One thousand eight hundred and Thirty-nine, and upon the same day in every succeeding year, the Electors in such Burghs or Towns respectively shall in like manner assemble and elect, in manner hereinbefore prescribed in relation to the first election under this Act, such number of Councillors as shall supply the place of the Councillors who shall as hereinbefore directed go annually out of office: Provided always, That in case any of the days hereinbefore mentioned shall happen to be a Sunday or other holiday on which no business is usually transacted, then and in that case the several acts and proceedings appointed to take place on such days shall take place on the day next ensuing.

34.
Succeeding
annual Elec-
tion of Coun-
cil.

And be it Enacted, That when any Magistrate or Office-bearer shall go out of office by rotation at the annual retirement of Councillors, the place of such Magistrate or Office-bearer shall be supplied by election by the Council as soon as the full number thereof shall have been com-

35.
Vacancies of
Magistrates
going out of
Office, how
supplied.

pleted by the annual election then hereby directed to take place; and the said election shall be made by plurality of voices, and the Chief or Senior attending Magistrate shall have a double or casting vote in case of equality: Provided always, That the Chief Magistrate and the Treasurer shall remain in office for the period of 5 Three Years, and that any person elected a Bailie shall continue to hold the office of Bailie during the period for which he holds the office of a Councillor, and Magistrates or Councillors going out of office shall at all times be capable of being re-elected, if then duly qualified. 10

36.
Councillors,
&c., may
resign.

And be it Enacted, That any person elected and accepting the office of Councillor, Magistrate, or other Office-bearer in any Town Council under the provisions of this Act, may resign his said office at any time, upon giving not less than Three Weeks' notice of such his intention by a written intimation to the Town Clerk or Chief Magistrate; and in the 15 event of such resignation being intimated as to be made at the period of the annual retirement of Councillors on the said Second day of November, such additional number of Councillors shall then be elected as may be necessary to complete the Council: Provided always, That no fine or other penalty shall be exigible from any person either declining 20 to accept after his election, or subsequently resigning his office.

37.
Election to
supply
Vacancy of
Councillor.

And be it Enacted, That if any vacancy shall occur in the office of Councillor for any Burgh between the periods of the annual election, the Councils of such Burghs shall, on a day to be fixed by the Chief Magistrate, such day not being sooner than Six nor later than Ten 25 Days after such vacancy, elect from the persons qualified to be Councillors another person to supply such vacancy, and every person so elected shall hold office until the next annual election; and if the person causing the vacancy would have gone out by rotation at such annual election, the said vacancy shall be supplied by the electors in the usual 30 manner; but if the person causing the vacancy as aforesaid would not have then gone out of office by rotation, the electors shall, in addition to the third of the Council then retiring, elect another person to supply such vacancy; and the Councillor who shall have the fewest number of votes at such election shall be deemed to be elected in the room of 35 the person causing such vacancy, and his name shall be inserted in the roll of Councillors, and he shall go out of office in the same rotation accordingly.

38.
Election to
supply the
place of
Chief Magis-
trate or
Treasurer.

And be it Enacted, That when any vacancy shall occur, between the period of the annual election, in the office of Chief Magistrate or Trea- 40 surer in any of the said Burghs or Towns, by death, disability or resignation, the Councils of such Burghs or Towns shall, on a day to be fixed by the Chief or acting Chief Magistrate, as the case may be, such day not

not being sooner than Six or later than Ten Days after such vacancy, elect from their own number a person to supply such vacancy of Chief Magistrate or Treasurer ; and such person so elected to supply such vacancy shall hold such office of Chief Magistrate or Treasurer
 5 during the period for which the person causing the vacancy would have remained in office ; and after such vacancy has been supplied, and on a day to be fixed as aforesaid, the Council shall elect from the persons qualified to be Councillors, another person or persons to supply the vacancy of such Councillor or Councillors so elected Chief Magistrate
 10 or Treasurer, and such Councillors so elected shall go out at the next annual election, and the vacancy shall be filled up by the electors in the same manner and to the same effect as hereinbefore provided in the case of a vacancy occurring in the office of Councillor.

And be it Enacted, That where any such Burgh or Town shall, in
 15 consequence of the decision of a Court of Law or other cause, be without any legal Council or Magistracy, all the functions directed by this Act to be performed by the existing Magistrates or Councils shall be performed by One or more of the Managers who may by any lawful appointment be authorized to administer the affairs of any such Burgh or
 20 Town, and in default of any such Managers, by the Sheriff or Sheriff-Substitute of the County.

39.
 Burghs having
 no legal
 Council.

And be it Enacted, That all the Notices or Intimations hereby directed or required to be given or made in any such Burgh or Town of any meetings or proceedings to be held or had in the matter of the elections
 25 of or respecting such Burgh or Town, in relation to any of the proceedings under this Act in this present year shall be given by the respective Sheriff Clerks, and in future years shall, where not directed to be otherwise given, be given or made by the respective Town Clerks thereof: Provided always, That no Councillor, nor the Partner in business of
 30 any Councillor, shall be entitled to hold the office of Town Clerk in any such Burgh or Town, and that no Town Clerk or Depute Town Clerk shall be entitled to vote in the election of Councillors, or to interfere directly or indirectly in the election of Magistrates or Office-bearers for such Burgh or Town.

40.
 Town Clerk
 to give
 Notices.

And be it Enacted, That the several persons officiating at elections as
 35 Substitutes for the Sheriffs or Assessors for the Chief Magistrates in such Burghs or Towns, shall be entitled to receive a sum not exceeding Three Pounds and Three Shillings for each day they shall respectively be so employed, and the Poll Clerks the sum of One Pound and One
 40 Shilling each for the same period, which sum, together with all the other expenses attending such elections, or the making up of Registers, giving notices at the Church doors, and providing copies of the said Registers or parts thereof for the purposes of election, shall be defrayed from the

41.
 Fees of Sub-
 stitutes, &c.,
 how to be paid.

common good or other means or revenues of such Burghs or Towns respectively.

42.
Vesting Pro-
perty in
Magistrates.

And be it Enacted, That the common good and property, heritable and movable, and means and revenues, and income of every description belonging to or leviable within any Burgh or Town included in this Act, or to which such Burgh or Town is entitled, or which are held or administered for or on behalf of the community of such Burgh or Town for the public ends and purposes thereof, (but subject to any liabilities to which the same are legally liable,) shall be and the same are hereby vested in the Magistrates and Council to be elected for such Burghs or Towns respectively under the provisions of this Act, with full power, right and authority to adjudge, sue for and recover the same for the benefit of such Burghs or Towns respectively. 5 10

43.
Vesting Trust
Property in
the Magis-
trates.

And be it Enacted, That all Mortifications, Endowments, Trusts or Bequests, or Trust Property, held and administered by the present Magistrates and Councils of any such Burgh or Town, or by any person or persons, body or bodies, holding or administering the same in any such Burgh or Town in which there were heretofore no Magistrates and Council, for the behoof of such Burgh or Town, or the community thereof, (but subject to any liabilities to which the same are legally liable,) shall be vested in and held and administered by the Magistrates and Council to be elected and chosen for such Burghs or Towns respectively under the provisions of this Act, to, for and upon the trusts and purposes, and subject to all the conditions and provisions under which the same were conveyed, granted or settled by the granters or makers of such Mortifications, Endowments, Trusts and Bequests, with full power, right and authority to adjudge, sue for, collect, levy and recover the same for the purposes thereof respectively, and for no other purposes. 15 20 25

44.
Assessment
where Burghs
have no Com-
mon Good, or
no sufficient
Common
Good, for first
Year.

And be it Enacted, That it shall be lawful, in the first year after an Election under this Act, for the Magistrates and Council of each such Burgh or Town which has no common good or means, or of which the common revenue arising from the good or means are not sufficient to defray the expenses of the Municipal and Police Establishment of such Burgh or Town, to impose and levy an assessment for that particular year upon the rent of all such lands, houses and heritages within such Burgh or Town as may be occupied by tenants, and upon the annual value of all such premises as may be occupied by the proprietors thereof, not exceeding One Shilling in the pound of such rent or annual value in such of the said Burghs or Towns as have no local Act for Police purposes, and not exceeding Threepence in the pound on such rent or annual value in such of the said Burghs or Towns as have such local Act, and that in order to defray such expense or such part thereof as the present means of such Burgh or Town are 30 35 40

are inadequate to defray ; excepting always from such assessment all feu duties, and also all such lands and premises as may be occupied solely as policies, plantations or pleasure-grounds, and which shall have been made, planted or inclosed as such before the passing of this Act, or
5 occupied for agricultural purposes or for pasture, or as nurseries, or market gardens ; and all subjects occupied solely for the purpose of public worship, or of charity or science or education, or as courts of justice, or as public offices connected with the administration of justice, or as depositories of public records, or as prisons, or police offices or
10 watch-houses, or lands or subjects belonging to the Crown, and in the immediate possession of His Majesty, or used for the public service ; and such assessment shall be payable by the tenant or occupant of such lands and heritages ; but such tenant or occupant by whom such assessment shall be paid, shall be entitled to deduct One-half of such
15 assessment from the rent, payable to the proprietor or person by whom such lands or heritages were let, who shall be liable for One-half of such assessment in case of the removal or default of the actual possessor of the premises, and such assessment shall be payable half-yearly or yearly, at such term or terms as the Magistrates and Town Council
20 shall appoint : Provided always, That no such assessment shall be imposed or levied unless the same shall have been approved of by a majority of at least Two-thirds of the whole Magistrates and Council, at a meeting called for the special purpose : Provided further, That in all cases in which any buildings have been or shall be erected under
25 a lease of any land, the person erecting such buildings shall, for the purposes of this Act, be deemed and taken to be the proprietor thereof, during the period of such lease.

And be it further Enacted, That with regard to such subjects as are liable to be assessed which shall be let for a less period than Twelve
30 months, the Proprietors thereof shall for the purpose of this Act be deemed and taken to be the Tenants, and shall be assessed accordingly ; and the said Provost, Magistrates and Council shall have power and they are hereby authorized to compound or agree with the Proprietors, or the Person or Persons in the administration of such subjects, as to
35 the Rent or Valuation at which the same shall be assessed ; and the sum so agreed upon shall be the rate of assessment ; and failing such composition or agreement, the Assessor to be appointed in virtue of this Act shall be entitled to fix and determine the rent or yearly value of such subject, and the assessment to be levied upon such subjects shall
40 be imposed upon such Rent or Value, and any person considering himself aggrieved by any such assessment shall be entitled to appeal against the same in manner hereinafter provided.

CLAUSE (C.)
Assessments
of subjects let
for a less
period than
Twelve
months.

And be it Enacted, That it shall not be lawful in any future year
for the Magistrates and Council of any such Burgh or Town to im-
330. c 3 pose

45.
Notice and
Act of Council
before Assess-
ment imposed
in future years.

pose and levy an assessment as aforesaid, unless Three Months at least previous to the annual election of Council, a majority of at least Two-thirds of the whole Magistrates and Council have passed an Act of Council setting forth in detail the state of the Burgh Revenues, and exhibiting the deficiency of the Burgh Revenue and other causes rendering such assessment necessary, the amount of the proposed assessment, and the purposes to which the same is intended to be applied, nor unless such Magistrates and Council shall have caused a written or printed copy of such Act of Council to be affixed within the Town Clerk's office, and upon the doors of the Council Chamber, Town Hall and Court House or other place where the Council are in use to meet, and also upon the doors of the Parish Church or Churches within which the said Burgh or Town or any part thereof is situated, Two Months preceding the annual election of Councillors as aforesaid, nor unless such Act of Council shall after such publication thereof as aforesaid, be approved of and confirmed by a majority of at least Two-thirds of the whole Magistrates and Council assembled at a meeting to be called for taking the same into consideration within One Month after the annual election of Councillors succeeding the publication of such notice, so that such assessment shall before being imposed be in all cases proposed by the Magistrates and Council of One Year, and be approved of by the Magistrates and Council of another year.

46.
Valuation of
Lands and
Heritages
liable to
Assessment.

And be it Enacted, That the Magistrates and Council of any such Burgh or Town in which such assessment shall be imposed shall previous to the imposition of such assessment, cause a valuation of the lands and heritages liable to assessment within such Burgh to be made up by some public officer of such Burgh or Town, or by a Surveyor to be appointed for the purpose, which Surveyor they are hereby authorized to appoint, showing the real rent or annual value of the several subjects on which such assessment is intended to be imposed, and the person so to be appointed to make the same shall be entitled to the inspection and use of the rolls or lists made up for the imposition and collection of the land tax or cess or assessed taxes, or for the imposition and collection of any other public or local tax or burthen, and such valuation being completed, the Magistrates and Council shall Two Months previous to the imposition of any such assessment, cause intimation to be made by a written or printed notice, affixed in the Town Clerk's Office, and on the doors of the Council Chamber, Town Hall and Court House, or other place where the Council are in use to meet, and upon the doors of the Parish Church or Churches, within which the said Burgh or Town or any part thereof is situated, that such valuation and the amount of the Assessment proposed to be made on the several lands and heritages therein valued will be deposited on a day to be specified in the notice in the Town Clerk's Office, there to be open for Four Weeks, for the inspection,

inspection, gratis, of all concerned, and such valuation and assessment shall be deposited and lie open accordingly ; and such notice shall further set forth the time and place at which any party dissatisfied with such valuation and assessment may be heard upon an appeal therefrom, to be made in manner hereinafter mentioned, such time not exceeding Seven Days after the expiration of the Four Weeks during which the valuation is to lie for inspection.

And be it Enacted, That such Magistrates and Council shall appoint a Committee of Three of their number to determine any Appeal that may be made against such valuation ; and it shall be lawful for any person dissatisfied with the valuation of his or her property and proposed assessment within the foresaid period of Four Weeks, but not thereafter, to lodge with the Town Clerk of the Burgh a note in writing, stating the grounds of Appeal ; and whatever such Committee shall, after hearing such Appeal, determine, shall be final and conclusive, and not subject to review in any manner of way.

47.
Committee of
Appeal.

And be it Enacted, That when such assessment or valuation shall be finally settled, a statement of the amount of the sums to be levied from the several persons liable for the same, signed by the Town Clerk, shall be delivered by the Magistrates and Council to the Chamberlain or Town Treasurer of such Burgh or other person, whom the Magistrates and Council shall employ to collect such assessment, as his warrant for collecting, and such person shall enter such state in a book to be kept by him, and shall also enter in such book a regular and distinct account of the sums received by him.

48.
Valuation and
Assessment to
be delivered
to Collector
as Warrant.

And be it Enacted, That where any person rated and assessed under this Act shall refuse or neglect to pay the assessment charged upon him for the space of Ten Days next after the same shall be due and demanded by the Collector, it shall be lawful for the said Collector to apply to any Magistrate of the Burgh for a warrant to any of the officers of the said Burgh to enter the premises, and to appraise and point the goods and effects of the person assessed and refusing and neglecting as aforesaid, which warrant the said Magistrate is hereby authorized and required to grant upon a certificate, signed by the Collector or person who made the demand, of such demand having been made, and of such person being in arrear to the amount to be stated in the certificate ; and if such assessment shall not be paid within Eight Days after such pointing, together with charges and expenses thereby incurred, then the said Collector is hereby authorized to sell by public roup, either on the premises where the said goods were pointed or any other public place, such part of such goods or effects as shall be sufficient to pay such assessment, with the expenses attending such pointing and sale, returning the surplus, if any be, to the

49.
Recovery of
Assessment.

owner; and failing the recovery of all or any part of the assessment in arrear in manner before described, the Collector shall be and he is hereby authorized and empowered to prosecute for and otherwise recover the same according to law, and the Collector shall be bound to preserve the warrants of such poindings or sales, or enter in a book to be kept for that purpose the names of the parties proceeded against, the assessment due, the expense of the proceedings, and the true proceeds of each sale, which book shall be open to the inspection (without any fee) of all parties interested for Three Months after the date of each sale respectively; and at any time within that period it shall be competent to any party considering himself aggrieved to complain to the said Magistrate of any thing done unjustly or oppressively in regard to such poinding or sale, such complaints being made in the form of Petitions subscribed by the Complainant, and the decision of the Magistrate shall be final, and not subject to review in any court by any form whatever.

50.
Application of
Assessment.

And be it Enacted, That the assessment to be so imposed, levied and collected, shall be applied in defraying the expenses of the municipal establishments of such Burghs, the maintenance of an efficient police, the paving, lighting, cleansing and watching the streets of the Burgh, and supplying the same with water, or any such one or more of these or other similar purposes which in the circumstances of the Burgh may be necessary, and which shall have been specified in the Act of Council to be passed and published as aforesaid. Provided always, That nothing herein contained shall affect or impair any existing obligation upon superior or other persons to make or maintain, or contribute to the expense of making or maintaining the streets of the said Burgh or Towns, or any part thereof.

51.
Additional
Assessment
may be im-
posed.

And be it Enacted, That if it shall appear to the said Magistrates and Council respectively that the said assessment is inadequate for the purposes aforesaid, it shall be lawful for the said respective Magistrates and Councils to cause written or printed notices to be affixed within the Town Clerk's office, and upon the walls of the Council Chamber Town Hall or Court House, or other places where the Council are in use to meet, and upon the doors of the Parish Church or Churches within which the said Burgh or Town, or any part thereof is situated, specifying the amount of any additional assessment which they proposed to levy, and requiring the rate-payers of such Burgh or Town who object to such additional assessment, within Sixty Days after the date of such notice, to signify their dissent from such proposed additional assessment by subscribing their names and designation in a book, which shall be provided by the Town Clerk for that purpose, and which book shall accordingly be open for the purpose aforesaid in the office of the Town Clerk for the said period of Sixty Days from and after

after the date of the said notices; and if at the end of that period a majority of the whole rate-payers of the Burgh or Town shall not have signified their dissent from the said additional assessment in manner aforesaid, the said Magistrates and Council shall have the same powers
 5 to levy the said additional assessment as they possess to levy the assessment of One Shilling in the pound, or Threepence in the pound respectively, hereinbefore authorized to be levied: Provided always, That such additional assessment shall in no case exceed Sixpence in the pound; and provided further, that if a majority of rate-payers object
 10 to an additional assessment, it shall be competent for the Magistrates and Council again to renew the notices, with a view to impose an additional assessment, but not until the expiry of Twelve Months from and after the period when an additional assessment was formerly proposed to be levied, and was objected to as aforesaid.

15 And be it Enacted, That it shall be lawful to the respective Magistrates and Council of any of the said Burghs or Towns, on the application of any occupant of subjects assessed or liable to be assessed in virtue of this Act, to remit on the ground of poverty the Assessments payable by such person, and that either in whole or in part, but no remission
 20 or exemption shall be granted on any other ground whatever.

52.
Assessments may be remitted on ground of poverty, but on no other ground.

And be it Enacted, That no person charged in respect of property owned or occupied by him within any such Burgh or Town with the Assessment hereby authorized to be imposed for the Paving of the Streets or Ways within the same, and for the other purposes of this Act,
 25 shall be liable for any Statute Labour Rate or conversion money in respect of such property so hereby authorized to be assessed, any Act or Acts of Parliament to the contrary notwithstanding.

CLAUSE (D.)
Persons assessed not to pay Statute Labour Rate.

And be it Enacted, That upon a requisition to that effect, subscribed by a majority of Rate-payers liable to the assessment authorized to be
 30 imposed by this Act, but not otherwise, it shall be lawful for the Magistrates and Council of any such Burgh or Town in which there is any Petty Customs, Impost, Rate or Duty payable to the superior thereof, or to any other person or persons, to contract and agree with such superior or other person or persons for the purchase of such Petty Customs, Imposts, Rates or Duties (Feu Duties, and the feudal casualties payable
 35 to the superior excepted), and to levy an assessment upon such Burgh or Town for the price agreed to be paid to such superior or other person as the price of such Customs or other Rates and Duties; and all such Petty Customs, Imposts, Rates or Duties so acquired by any Burgh or
 40 Town shall be forthwith abolished in all time coming.

53.
Magistrates may agree for purchase of Petty Customs, &c.

And be it Enacted, That if the superior or other person or persons entitled to such customs, imposts, rates or duties shall refuse to sell the same, or if such superior or other person or persons and such Magistrates

54.
Value in certain cases to be fixed by a Jury.

and Council desirous of acquiring the same shall be unable to agree regarding the value thereof, it shall be lawful for such Magistrates and Council to apply by petition to the Sheriff of the County in which the Burgh or Town wherein such customs, imposts, rates or duties are leviable is situated, requiring him to summon a Jury to ascertain the value of such customs, imposts, rates or duties, which petition the Sheriff shall cause to be intimated to the opposite party; and the Sheriff shall within Fourteen Days after such intimation is made, cause to be summoned in the usual manner in which Juries are summoned in *Scotland*, an Assize of at least Twenty-one impartial and disinterested persons on such day as he shall fix, which Assize being called on the day appointed, the names of the persons attending thereon shall be set forth in a List to be prepared by the Sheriff, and the number of persons contained therein shall be reduced to Nine by each of the said parties (beginning with the superior or other person or persons aforesaid), striking off alternately one name from the said List until the number be reduced to Nine, who shall be sworn and shall constitute the Jury to try and determine the value of the customs, imposts, rates or duties sought to be acquired by such Burgh or Town.

55.
Proceedings
in fixing value.

And be it Enacted, That the said petition to the Sheriff shall be laid before the Jury so to be appointed, and it shall be competent for both or either of the said parties to lay before such Jury all such lawful evidence as they shall think fit touching the value of such customs, imposts, rates or duties, and the Sheriff shall make a note of such part of such evidence as may not be in writing, and after deliberating thereon, and hearing parties or their Procurators if they shall desire to be heard, and after the case and evidence shall be summed up by the Sheriff, and upon due consideration of all the circumstances of the case, the said Jury shall by their verdict or determination fix the amount of the value in money of such customs, imposts, rates or duties in perpetuity, and upon payment of the value so ascertained to such superior or other person or persons, but not sooner, such customs, imposts, rates and duties shall thereafter be abolished in all time coming; and the expenses attending the summoning of the Jury and proceedings and verdict shall in all cases be paid by the Magistrates and Council of the Burgh or Town party thereto, out of the common good or other funds thereof: Provided that if the value of such customs, imposts, rates or duties so ascertained shall not be paid or secured to the satisfaction of such superior or other person or persons, within Five years after the date of such verdict or determination, such verdict shall become null and void.

56.
How price to be
secured when
Customs held
under entail.

And be it Enacted, That such proceedings may take place, and such customs, imposts, rates and duties be purchased in manner aforesaid, notwithstanding that the same or any part thereof be held by such superior

- perior or other person or persons in the right of the same, under a deed or deeds of entail; provided that in such case the price to be paid for the same under such verdict as aforesaid shall be settled and secured in the like manner as is directed in the case of superiorities sold to the vassals of
- 5 entailed estates, by an Act made in the twentieth year of the reign of his Majesty King GEORGE the Second, intituled, "An Act for taking away the Tenure of Ward Holding in *Scotland*, and for converting the same into Blench and Feu Holdings, and for regulating the Casualty of Non-entry in certain cases, and for taking away the
- 10 Casualty of Single and Life-Rent Escheats incurred there by Horning and Denunciation in Civil Causes, and for giving to Heirs and Successors there a summary process against Superiors, and for discharging the Attendance of Vassals at Head Courts there, and for ascertaining the Service of Tenants there, and for allowing Heirs of Tailzie there to
- 15 sell Lands to the Crown for erecting Buildings and making Settlements in the Highlands."

20 Geo. 2.
c. 50.

- And be it Enacted, That it shall be lawful and competent to have and hold a Weekly Market within each Burgh or Town for the purchase and sale of all lawful commodities: and it shall further be lawful and
- 20 competent to have and hold Two Annual Free Fairs within each such Burgh or Town, each Fair to continue for the space of One day and no longer; and such Weekly Market and Fair shall be held at such place or places within each such Burgh or Town, and upon such lawful days as may be fixed and appointed by such Magistrates and Council, of
- 25 which they shall give such notice as they shall deem necessary, with power to such Magistrates and Council, at any time hereafter, to alter or vary the place or day so appointed for holding such Markets or Fairs, if they shall deem such alterations necessary or convenient, of which they shall give notice as aforesaid; and it shall be lawful and compe-
- 30 tent for such Magistrates and Council to make such Regulations and Bye-laws in relation to such Weekly Markets and Fairs as they shall deem expedient for the convenience of the persons resorting thereto and for the preservation of the peace: Provided always, That such Regulations and Bye-laws shall not be inconsistent with this Act nor repugnant
- 35 to the law of *Scotland*.

CLAUSE (E.)
Burghs to have
Weekly Mar-
kets and
Annual Fairs.

- And be it Enacted, That it shall be lawful to the Magistrates and Council of any such Burgh or Town to put in force and execution the powers and provisions hereinafter granted and contained, relating to the paving, lighting, watching and cleansing the streets of such Burgh or
- 40 Town, supplying the same with water, and regulating the police thereof, or such parts of such powers and provisions as may be deemed necessary and expedient for such Burgh or Town: Provided always, That it shall not be lawful to such Magistrates and Council to impose or levy any assessment for such purposes beyond the assessments by this Act

57.
Magistrates
and Council
may enforce
Police powers,

authorized to be levied, except in manner and to the extent herein-before provided.

58.

Magistrates to have joint and several jurisdiction in all matters of Police.

And be it Enacted, That the Magistrates to be elected under the provisions of this Act, shall have jointly and severally jurisdiction in all matters of police within the said respective Burghs or Towns, and shall have power to try summarily all petty crimes and offences committed therein, and to punish such crimes and offences by a fine not exceeding Five Pounds, and by imprisonment in the Jail or in Bridewell not exceeding Thirty Days, and by ordaining the offender to find caution to keep the peace for a period not exceeding Six Months under a penalty not exceeding Ten Pounds, or by awarding any one of these punishments; and where any fine or penalty is imposed, such Magistrates shall have power to commit the offender to prison until such fine or penalty shall be paid, but the period of such imprisonment shall not exceed Thirty Days; and such Magistrates shall have jurisdiction to grant warrant for apprehending all persons within the aforesaid respective Burghs or Towns accused of crimes or offences wherever perpetrated, and for committing such persons for examination or further examination till liberated in due course of law, or for transmitting them to the other authorities, and shall be entitled to take precognitions, if deemed necessary, relative to all such and other the like crimes or offences.

59.

Certain crimes not to be punished under this Act.

And be it Enacted, That nothing herein contained shall be held to confer on the said Magistrates the power to try or to punish for any of the crimes denominated the Pleas of the Crown, videlicet, Murder, Robbery, Rape and Wilful Fire-raising, or the crimes of Stouthrief, or of Theft by house-breaking, or of House-breaking with intent to steal, or of simple Theft to an amount exceeding Ten Pounds, or of Theft by opening lockfast places, or of Theft aggravated by being habit and repute a common thief, or by having been Three times previously convicted of Theft, or of Reset of Theft to an amount exceeding Ten Pounds, or of Reset of Theft aggravated by having been Three times previously convicted of that crime, or of Falsehood, Fraud and Wilful Imposition to an amount exceeding Ten Pounds, or of Falsehood, Fraud and Wilful Imposition aggravated by having been Three times previously convicted of any offence of that nature, or of Assault to the danger of life, or of Assault with any knife or other lethal instrument whereby effusion of blood has followed, or of Assault aggravated by Three previous convictions for that crime, or of Assault with intent to Ravish, or of attempt at Wilful Fire-raising, or of culpable Homicide, or of Forgery, or of uttering Forged Bank or Bankers' Notes; but if it shall appear either in the preliminary investigation of the charges against the persons accused, or during their trial, that they are guilty of or are charged with any of the said crimes, the Magistrates before whom such persons are accused or tried shall and are hereby authorized and required

required to transmit such persons to the gaol of the County within which the Burgh or Town in which such accusation or trial has occurred is situated, and forthwith to give notice of such transmission to the Procurator Fiscal of the said County; who shall immediately apply to the

5 Sheriff for a Warrant to deal with the persons so transmitted according to law; until the obtaining of which Warrant the Keepers of such gaols are hereby authorized and required to receive and detain the persons transmitted as aforesaid on the Warrant of the said Magistrates, any law or practice to the contrary notwithstanding.

60.

In cases of Theft, Reset of Theft or Fraud, Complaint and Conviction to bear value not above 10*l*.

10 And be it Enacted, That in all cases of Theft, or of Reset of Theft, or of Wilful Fraud and Imposition which shall be tried before such Magistrates, the complaint and the conviction following thereon shall bear that the sum of money or the value of the article or articles stolen, resetted or obtained by Falsehood, Fraud and Wilful Imposition, did not exceed Ten Pounds, and unless an offer shall be made at

15 the time of trial to prove that the article or articles stolen, resetted or obtained as aforesaid exceeded in value the sum of Ten Pounds, it shall not be competent thereafter for the person accused to offer any such proof.

61.

Councils to appoint Fiscal, at whose instance all Prosecutions shall be conducted, and by whom Fines and Penalties recovered shall be paid to Treasurer.

And be it Enacted, That it shall be lawful to the Magistrates and

20 Councils of such Burghs or Towns respectively, and they are hereby required to appoint a fit person to be Procurator Fiscal for the purposes of this Act within their Burghs respectively, at whose instance all prosecutions and proceedings before the said Magistrates shall be conducted, and by whom all forfeitures under bail-bonds, whether by principal or cautioners, and all fines and penalties authorized by this Act may

25 (where not otherwise expressly provided for) be sued for summarily before the said Magistrates, who are hereby respectively empowered to decern for the same, and which forfeitures, fines and penalties (where not otherwise expressly provided as aforesaid) may be recovered by the said

30 Procurator Fiscal by poinding and sale of the party's effects in manner hereinbefore provided as to assessments to be levied under this Act; and the said Procurator Fiscal shall have power to accept of bail from persons apprehended within the Burgh or Town accused of bailable offences, and to liberate them on such bail being found, which bail, where not otherwise

35 required by law, shall be to an amount not exceeding Ten Pounds, without prejudice always to an application to be admitted to bail being made to a Magistrate in the usual form by the person accused, if the consent of the Procurator Fiscal to accept of bail be either not asked or be refused: Provided always, That all fines and penalties recovered by the said Procurator Fiscal shall be paid over by him (under deduction

40 of the necessary expenses attending the respective prosecutions and recovery of the fines and penalties) to the Treasurer of the Burgh or Town, to be held and applied by him as part of the common funds and property thereof.

62.

Councils may
appoint
Officers of
Police, &c.,
and make all
necessary
Regulations
for watching,
lighting,
paving and
supplying
Burghs with
Water, &c.

And be it Enacted, That it shall be lawful for the said respective Magistrates and Councils to appoint Officers of Police, Watchmen and other persons necessary for the due execution of this Act, at such wages as they shall judge meet, and to remove them at pleasure, and to increase or diminish their number from time to time as they shall see 5
cause, and to make orders and regulations for their government, and also for the proper watching, lighting, paving and cleansing the streets, roads and places within the said respective Burghs or Towns ; to make orders and regulations for the prevention of infectious diseases, and for abating and removing nuisances which may affect the health or comfort of 10
the inhabitants, and for supplying and distributing water and gas through the said respective Burghs or Towns, in so far as a supply of water or gas may be obtained under the provisions of this Act, and also for preserving the peace of such Burghs or Towns ; for the slaughtering of cattle within the same ; for licensing and regulating the number of sedan chairs, 15
hackney coaches and other carriages which shall ply for hire, and also the number of porters in the said Burghs respectively ; for fixing from time to time the stands or stations to be occupied by such sedan chairs, hackney coaches, carriages and porters, and the rates and fares to be exacted for time, and also for distances not exceeding Five Miles around 20
the Burgh for coachmen, and Two Miles for chairmen and porters, and with power to enact penalties for enforcing the said orders and regulations, not exceeding Twenty Shillings for the first and Forty Shillings for the second and every other offence, to be recovered summarily before the said Magistrates, and the payment thereof, if not made 25
within Twenty-four Hours, to be (if so authorized by the Judge) enforced by imprisonment not exceeding Thirty Days : Provided always, That the orders and regulations so to be made shall not be repugnant to the rules of the law of *Scotland* ; and provided further, That all such orders and regulations shall be legibly and distinctly painted upon 30
boards, and hung up in conspicuous places in the said Burghs or Towns respectively, and renewed as often as may be necessary, and any person injuring or defacing the said boards shall be liable to be fined by the said Magistrates in a penalty not exceeding Five Pounds, and to be imprisoned till payment of the said penalty for a period not exceeding 35
Thirty Days.

63.

Officers of
Police to be
Constables,
and may apprehend with
out written
Warrant.

And be it Enacted, That the Officers of Police and Watchmen appointed and acting under the provisions of this Act, shall possess within the said respective Burghs or Towns all the powers and be subject to all the regulations belonging and applicable to Constables by 40
the law of *Scotland*, and shall be sworn in as Constables by the said Magistrates ; and such Officers of Police and Watchmen are hereby specially authorized and required to apprehend and secure, and the said Procurator Fiscal may direct them and the assistants to apprehend

hend and secure, and bring before the said Magistrates, without any warrant, all persons found within the said respective Burghs subject either to be tried by such Magistrates for any crimes or offences under this Act, or to be transmitted on suspicion or accusation thereof to another jurisdiction; and all persons apprehended without a written warrant shall be brought before such Magistrates as soon as may be, and in no case later than within Twenty-four Hours, or upon the first lawful day after being so apprehended.

And be it Enacted, That if any person shall lodge, harbour or entertain, or entice from his duty any Watchman or Police Officer appointed under this Act during his hours of duty, such person shall be liable in a penalty not exceeding Twenty Shillings for each offence, and to be imprisoned till payment thereof, but for a period not exceeding Thirty Days.

64.
Persons enticing Watchmen from Duty, to be liable in a Penalty not exceeding 20s.

And be it Enacted, That in cases of contempt of Court, or of assaulting, resisting or obstructing the Officers of the Law when in attendance on the Court, it shall be competent for the Judge, either of his own motion, summarily, and without the necessity of a complaint or other procedure, to punish the offender by a fine not exceeding Twenty Shillings, or by imprisonment in the Tolbooth or Bridewell for any period not exceeding Fourteen Days, or he may direct the offender to be prosecuted after the ordinary form by the Procurator Fiscal, in which case the same forms shall be observed and the same punishment may be inflicted as in other offences before the said Court: Provided always, That when the Judge shall proceed to punish summarily he shall award the punishment by sentence in writing, and cause a record to be kept, containing a statement of the facts which may have led to such punishment.

CLAUSE (F.)
Persons may be punished for contempt of Court.

And be it Enacted, That every person who shall assault, strike, obstruct, hinder or molest any Officer or other Person employed under this Act in the execution of his duty, shall for each such offence forfeit and pay a sum not exceeding Five Pounds sterling, without prejudice to the Officer or other person to sue for and recover a recompense, damage or expenses for the injury which he may sustain, and to have the same awarded in the due course of law.

CLAUSE (G.)
Persons obstructing Officers to be liable in a penalty.

And be it further Enacted, That in all cases of Petty Offences which shall appear to the Judge not to require punishment by commitment to Prison or Bridewell, it shall be in the power of the said Judge to sentence the party or parties having committed any such petty offence to be confined in the Police Office for any period not exceeding Three Days, either as the sole punishment to be inflicted, or along with caution to keep the peace, or for good behaviour, or in addition to any fine that may be competently awarded under this Act.

CLAUSE (H.)
Persons may be confined in Police Office.

65.

Magistrates
may suspend
Officers of
Police till
next meeting
of Council.

And be it Enacted, That it shall be in the power of such Magistrates to suspend any Officer of Police or Watchman appointed by them for neglect of duty or improper conduct, but any such suspension shall be intimated to and shall only be operative till the next meeting of such Magistrates and Council, who shall have power to do in the matter as to them shall appear proper.

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66.

Retailers of
Ale, Beer or
Spirituos
Liquors, who
keep disorderly
Houses, may be
punished.

And be it Enacted, That it shall be in the power of such Magistrates, if they shall see cause, on complaint made to them by the said Procurator Fiscal against any person holding an Excise License for the sale of ale, beer or spirituous liquors, and who shall be proved to have supplied spirituous liquors to any person under the age of fourteen years, or to have permitted riotous or disorderly conduct within his premises, or to have allowed them to be open at irregular hours, or to have permitted them to be in any way frequented or used in a manner injurious to the peace or good order of the neighbourhood, to declare the Excise License of such person to be forfeited, or to inflict fines on such person not exceeding in amount the highest fines hereby allowed to be inflicted by such Magistrates for other offences, and to ordain such persons to be imprisoned till payment of such fines, such imprisonment in no case exceeding Thirty Days, and to ordain them to find caution for their good behaviour for a period not exceeding Six Months, and under a penalty not exceeding Thirty Pounds.

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67.

Councils may
provide Police
Office, and
other requisite
Accommodation.

And be it Enacted, That it shall be lawful to the Magistrates and Council of such Burghs or Towns respectively, to provide in each Burgh or Town a proper Police Office, containing suitable accommodation for the several Officers of the Establishment, and for confining prisoners as provided for by this Act, and also proper Watch-houses if necessary, in different situations; and for these purposes to enter into contracts of Sale or of Lease, and all other necessary contracts, and to pay or become bound to pay in their corporate capacity such prices or rents as may be agreed on therefor.

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68.

Councils may
contract for
lighting
Streets, and
may erect
Lamp-posts,
&c.

And be it Enacted, That it shall be lawful for the said respective Magistrates and Councils to light or cause to be lighted, or to contract for lighting in a suitable manner with oil, gas or otherwise, the whole streets, roads and other places within the said respective Burghs, or any part thereof, as they shall from time to time think fit, and to place and erect the requisite lamps, lamp-posts, lamp-irons, gas-pipes, and other necessary works or apparatus, and to affix the same where necessary upon the walls of the houses or other buildings upon the sides of the said streets, roads or other places.

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69.

Persons injuring
Lamps,
&c. to be
liable in

And be it Enacted, That if any person shall wilfully take away or injure any such lamps, lamp-posts, lamp-irons, gas-pipes, or appurtenances

tenances thereof, or shall wilfully extinguish the light of or within the same, such person shall be liable for such sum as shall be necessary for remedying the damage done (to be decerned for summarily by the said Magistrates, and recovered at the instance of the said Procturor

Damages, and
in a Fine not
exceeding 5 £.

- 5 Fiscal if not paid within Forty-eight Hours, by pointing and sale of the offender's effects, in the same manner as hereinbefore provided in regard to assessments imposed under this Act), and such offender shall further be liable in a fine to be inflicted as aforesaid, not exceeding Five Pounds for each offence, and to imprisonment till payment thereof for a period
10 not exceeding Thirty Days.

And be it Enacted, That it shall be lawful for the said respective Magistrates and Councils to take all necessary means for procuring an adequate supply of Water for the use of the Inhabitants of the said Burghs or Towns, and for that purpose to enter into all necessary
15 contracts with persons either within or beyond the Burgh or Town, and to construct all necessary Works both within and beyond the same, for collecting, conveying and distributing such Water into and through such Burghs or Towns respectively, and to open the streets, roads and grounds both in and beyond the boundaries of such Burghs or Towns
20 from time to time, in order to place or replace and repair such Works, in such manner as may be necessary for effecting the purposes aforesaid.

70.
Councils may
procure Sup-
ply of Water.

- And be it Enacted, That the respective Magistrates and Councils of such Burghs or Towns shall make all necessary regulations relative to the laying down, altering or repairing such gas-pipes and water-
25 pipes for preventing or stopping the escape of gas, and for preventing the Water from being contaminated by Gas, and for regulating the opening and closing of the roads, streets and grounds through which such gas-pipes or water-pipes may pass; and failing their making and enforcing all such regulations, it shall be competent to any person
30 aggrieved to complain by summary petition to the Sheriff of the County, and such Sheriff shall have power to award such sums in name of damages (if any appear to be sustained) to the person so complaining as he may see just, and to find such person liable in or entitled to the costs of suit, and to the expenses incurred under
35 any remit to persons of skill ordered by the said Sheriff as the said Sheriff shall think proper.

71.
Councils to
regulate
laying down,
altering or
repairing Gas
and Water
Pipes.

- And be it Enacted, That it shall be lawful for the respective Magistrates and Councils of the said Burghs or Towns to enter into contracts with the Occupier or Proprietor of any house or premises
40 situated within the same for supplying such house or premises with Water or Gas, and such Occupier or Proprietor may thereupon, but not otherwise, be permitted to convey such water or gas into such house or
330. premises

72.
Councils may
contract with
Occupiers of
Houses for
supplying
them with
Water or Gas.

premises upon making such termly payment to such Magistrates and Council, and on such other conditions as may be agreed upon: Provided always, That if at any time such termly payment shall fall into arrear, it shall be lawful for such Magistrates and Council and their Collector to levy the same by poinding and sale of the Debtor's effects 5 in manner hereinbefore provided for the recovery of assessments under the provisions of this Act, and to stop the further supply of water or gas to such house or premises in such manner as they shall direct: Provided further, That nothing herein contained shall be construed to prevent any person from taking water at any of the Public Wells 10 already made or to be made within such Burghs or Towns respectively.

73.

Persons supplied with Water to prevent same running waste, under Penalty not exceeding 20s. for each offence.

And be it Enacted, That every person supplied with Water by contract as aforesaid, shall, in every cistern or other receptacle for water, affix to the pipe conveying the water into his house or premises a ball-cock or other self-acting cock in such manner as the respective 15 Magistrates and Councils or their Officers shall direct, and shall keep the same in repair, and shall prevent the water from running waste or being applied to the use of any other person than those resident within such house or premises, under a penalty not exceeding Twenty Shillings sterling for each offence. 20

74.

Persons taking Water out of Pond, Reservoir or Aqueduct, without written consent of Council, to be liable in Penalty not exceeding 50l., to be sued for before Sheriff or Court of Session.

And be it Enacted, That if any person shall take or cause to be taken or used any Water out of any pond, reservoir or aqueduct or other work belonging to such respective Magistrates and Councils, without their consent in writing, every person so offending shall be liable in a penalty not exceeding Fifty Pounds, to be sued for and recovered by 25 such respective Councils, by summary petition to the Sheriff of the County, or to the Court of Session, or by the other ordinary remedies of law, and such penalty, when recovered, shall be applied in the same manner in which the other penalties imposed by this Act are directed to be applied. 30

75.

Councils may appoint Scavengers, &c., and remove all Dust, Ashes, &c., to places least offensive to Inhabitants.

And be it Enacted, That it shall be lawful for the said respective Magistrates and Councils to appoint Scavengers and other Officers or Servants, and to enter into contracts for sweeping and cleansing the streets and other places in such Burghs or Towns, and to remove all dust, ashes, dung and other filth so collected to such places as the 35 said Magistrates and Councils shall deem least offensive to the Inhabitants, with power to them to rent or purchase depôts for that purpose within or beyond such Burghs or Towns, and all such dust, ashes, dung or other filth, excepting always stable and byre dung, and the refuse of slaughter-houses, shall belong to such Magistrates and Councils respectively.

And

76.

Where Buildings to be erected or repaired, or Articles to be deposited on Streets, authority must be obtained to that effect, and Public secured from danger under Penalty not exceeding 10 s. for each day's failure.

And be it Enacted, That wherever any house or building within any such Burgh or Town is to be erected, rebuilt or repaired, whereby risk may arise of any injury to the public, or wherever any articles or materials are wished to be deposited on any street or other public place, or
 5 any opening to be made therein, application shall previously be made to the Magistrates of such Burgh or Town for authority to that effect, and the person obtaining such authority shall be bound to erect and maintain at his own expense, at the sight of the said Procurator Fiscal, a proper fence around that portion of the street or
 10 place opposite or adjoining to the house or building to be erected, rebuilt or repaired, or around the articles or materials to be deposited, or around the opening to be made as aforesaid, and also to provide, if necessary, other temporary accommodation for passengers, all in such manner as such Procurator Fiscal or such Magistrates shall direct,
 15 and the person neglecting or refusing so to do shall be liable in a penalty not exceeding Ten Shillings for each day's failure, to be recovered by such Procurator Fiscal.

77.

Buildings which are insecure or dangerous, to be ordered to be taken down or repaired.

And be it Enacted, That if any house or other building within any such Burgh or Town shall be considered insecure, ruinous or otherwise
 20 dangerous to the Lieges, it shall be lawful to the Procurator Fiscal of such Burgh or Town to apply to the Magistrates thereof to order an inspection of such house or building by persons of skill, and thereafter, if necessary, to require the owner or other person drawing the rents or profits of the same to repair and secure or to pull down and remove the same
 25 within such reasonable time, to be specified in the requisition, as the said Magistrates and Council shall direct; and failing compliance with such requisition, or failing there being any known person within Scotland to whom such requisition can be made, it shall be lawful to the Magistrates and Council to ordain such house or other building to be
 30 repaired and secured or pulled down and removed at the expense of the owner, who shall moreover be liable in a penalty not exceeding Five Pounds for every day during which he fails or refuses to comply with the requisition intimated to him as aforesaid.

78.

Owners of Houses may be required to form Pipes or Water-runs along Roof and Cornices of Houses.

And be it Enacted, That it shall be lawful for the respective Magistrates of such Burghs or Towns to require the owners of houses
 35 or other buildings within the same to form and keep in repair, at their own expense, leaden or other proper pipes or runs to be carried down the walls of such houses or other buildings respectively to the ground for collecting and conveying the water from the roofs and cornices of the said houses or other buildings, but in such a manner that
 40 the same shall not be discharged upon the foot-pavements, and if such requisition shall not be complied with within Fourteen Days, the person failing shall be liable in a penalty not exceeding Five Shillings for each day's failure, and the Magistrates and Councils shall have power to

ordain such pipes or runs to be constructed or repaired at such owner's expense, to be recovered at the instance of such Procurator Fiscal.

79.

Entries to Cellars, &c. by sunk Steps to be secured by Iron Grating; and all dangerous articles on Roofs or other parts of Houses to be rendered secure, or removed.

And be it Enacted, That such Magistrates may order all entries to Cellars and other places adjoining to any public street or place by sunk steps or other openings in the street or pavement beyond the line of the wall of the building to which they belong, to be protected by an iron grating or other sufficient cover, in such manner as may be best suited for preventing danger to Passengers, and may order all Chimney-cans or Pots, Tiles, Slates, Shutters or other articles on the roofs, or any other parts of houses or buildings within such Burghs which may be deemed dangerous to passengers, to be forthwith removed or repaired by the persons having the right to or control over the same, and any person failing to comply with any such order shall be liable in a penalty not exceeding Twenty Shillings for each offence, besides the cost of making such grating or cover, or of removing or repairing the said other articles, as the case may be, which the Magistrates may order to be done at the expense of the party failing, to be recovered at the instance of such Procurator Fiscal.

80.

Houses, &c. to be numbered, and names of Streets marked.

And be it Enacted, That the said respective Magistrates and Councils may order all Houses, Buildings, Shops, Cellars or Warehouses within such Burghs or Towns respectively to be numbered with Figures to be placed or painted on such conspicuous parts thereof as they shall direct, and may likewise order the Name of each Street, Square or other place, to be placed or painted on some conspicuous place at or near the corner thereof, and any person who shall wilfully deface or injure any such Number, Figure or Name, shall for every such offence be liable in a penalty not exceeding Ten Shillings, and to be imprisoned till payment thereof, but for a period not exceeding Ten Days.

81.

Gunpowder not to be sold by Candle-light, nor more than Ten Pounds weight kept in one place.

And be it Enacted, That no Gunpowder shall be sold within any such Burgh or Town by Candle or other artificial light, under a penalty not exceeding Twenty Shillings for each offence, to be paid by the person so selling the same; and no person shall bring or cause to be brought within any of the said Burghs or Towns more than Ten Pounds weight of Gunpowder at any one time, for the purpose of being shipped from or passing through such Burgh or Town, or for any other purpose, without giving previous notice to a Magistrate of such Burgh or Town, and adopting such precautions for the safety of the Lieges as such Magistrate shall direct, under a penalty not exceeding Twenty Shillings for each offence; and no person shall keep at any time, in any one place, within any of the said Burghs or Towns, more than Ten Pounds weight of Gunpowder, under a penalty for the first offence not exceeding Twenty Shillings, for the second offence not exceeding Three Pounds, and for the third and any subsequent offence, not exceeding Five Pounds, besides

besides forfeiting (in case of such third or subsequent offence) all the Gunpowder which shall be found in such place exceeding the aforesaid weight; and the aforesaid quantity of Ten Pounds weight of Gunpowder allowed to be kept as aforesaid, shall be deposited in a place by itself,
 5 secured by lock and key, separate from all other goods and commodities, under a penalty not exceeding Twenty Shillings for each offence, and any person found liable in any of the said penalties shall further be liable to be imprisoned till payment thereof, for a period not exceeding in each case the space of Thirty Days: Provided always, That nothing
 10 herein contained shall interfere with the right of the Commanding Officer of any of His Majesty's Forces, or of any Volunteer or Yeomanry Corps, to keep such quantity of Gunpowder as he may think necessary for military purposes.

And be it Enacted, That it shall be lawful for the Procurator Fiscal
 15 or any party interested to apply to the respective Magistrates and Councils of such Burghs or Towns for the removal or alteration of any stair or other projection from the wall of any building in any of the streets or other public places in the said Burghs or Towns respectively which may obstruct the free passage, or occasion hazard or inconvenience to pas-
 20 sengers, and on such application being presented, it shall be lawful to the respective Magistrates and Councils of such Burghs or Towns to remit to persons of skill to report on the manner in which such stair or other projection may reasonably be removed or altered without depriving such building of a suitable access, and also to estimate the probable ex-
 25 penses of making such removal or alteration, and the amount of compensation, if any, which ought to be allowed to the proprietor for the injury his property may thereby sustain; and on consideration of such Report the Magistrates and Councils may order such stair or other projection to be altered or removed at the sight of such persons of skill within
 30 a period not less than Thirty Days after the date of the intimation of such order to the proprietor: Provided always, That it shall be lawful to the proprietor, if he shall be dissatisfied with the amount of compensation proposed to be allowed to him, to apply within Ten Days after such intimation to the Sheriff of the County to ascertain the proper
 35 amount of such compensation by a remit to and report from persons of skill, or, in the option of the proprietor, by the verdict of a Jury to be summoned in the manner in which Juries in *Scotland* are summoned, it being in the power of the said Sheriff to ordain caution to be found for expenses, and to determine all questions of expenses arising out of
 40 said application, and to fix a time within which such stair or projection shall be removed or altered as aforesaid; and if the same be not removed or altered within the time fixed by the said Sheriff in the case of an application to him, or within the time fixed by such Magistrates and Councils in case there should be no such application, then the party failing shall be liable in a penalty not exceeding Twenty Shillings

82.
 Stairs or Projections on Streets may be ordered to be altered or removed.

for each Month during which he fails to implement the said order, and in case he so fails for the period of Six Months, then the said Magistrates and Councils may ordain the said stair or projection to be removed or altered as aforesaid at his expense, such fines and expense to be recovered at the instance of such Procurator Fiscal: Provided further, That 5
 wherever such Proprietor shall declare in writing his willingness to remove or alter such stair or projection as aforesaid, within the time fixed by the Magistrates and Council or Sheriff respectively, the said Magistrates and Council shall be bound to consign in a Bank the amount reported as found to be due as aforesaid to such proprietor for compensation 01
 and expenses (under deduction of the expenses, if any, decerned for by the said Sheriff in their favour) on a receipt taken payable to and lodged with the Sheriff Clerk of the County, who shall be bound to pay the amount thereof to such proprietor on the removal or alteration of such stair or projection being completed by him as aforesaid, or if 15
 the proprietor shall find caution to the satisfaction of the said Magistrates and Council to complete the removal or alteration within the time fixed by them or the Sheriff respectively, then such Magistrates and Council shall in all cases be bound to pay over to such proprietor the amount ascertained to be due as aforesaid, for compensation and 20
 expenses (under deduction as aforesaid) immediately on such caution being found.

83.
 Councils may order Foot-paths to be formed, and Iron Railings and Pavements, &c. to be repaired.

And be it Enacted, That the proprietors of all houses and other buildings, and of grounds or other heritages on which there are no buildings, which are adjoining to or fronting any street or other public 25
 place within any of the said Burghs or Towns, shall, at their own expense, within Thirty Days after being required by the said respective Magistrates and Councils of such Burghs, cause foot-paths to be formed and sufficiently paved or otherwise constructed, in such manner and of such breadth as such Magistrates and Councils shall direct; and where 30
 any part of the streets or other ways, or of the pavements or foot-paths within any of the said Burghs made or to be made, or of the iron railings or area gates adjoining the same, shall fall into disrepair, the persons liable to repair the same shall be bound to do so within Ten Days after being required by such Magistrates and Councils; and 35
 failing any such order being complied with within the times respectively before specified, such Magistrates and Councils may ordain the work to be executed at the expense of the persons failing, who shall further be liable in a penalty not exceeding Twenty Shillings for each failure, which expense and penalty shall be recoverable at the instance of the 40
 said Procurator Fiscal.

84.
 Drains and Common Sewers may be made, and ordered to be kept in repair.

And be it Enacted, That the respective Magistrates and Councils of such Burghs or Towns shall have power to construct proper main drains or common sewers in all places within such Burghs where they may

may consider the same to be necessary, and from time to time to enlarge, alter and repair the same, and also to conduct drains for leading the rain and other water or soil into such main drains: Provided always, That the water at present carried into any existing outlet shall
 5 not be diminished or diverted therefrom without the consent in writing of the persons interested in such water: Provided also, That such Magistrates and Councils may, if they consider it reasonable, ordain the expense of making, altering or repairing such drains and sewers to be defrayed by the proprietors whose properties shall derive benefit
 10 therefrom, in the proportions to be fixed by such Magistrates and Councils, and to be recovered along with and in the same manner as hereinbefore provided in regard to the assessments to be levied under this Act: Provided further, That where any particular person or persons shall be bound to uphold any drain, sewer, water-pipe or
 15 water-course within any such Burgh or Town, and the same shall get into disrepair, it shall be lawful for such Magistrates and Councils to require such person or persons to repair the same within Fourteen Days; and in case this requisition shall not be complied with, such Magistrates and Councils may ordain such repairs to be made at the expense of the
 20 party failing, who shall further be liable in a penalty not exceeding One-half the amount of the expense of executing such repairs, which expense and penalty shall be recoverable at the instance of the said Procurator Fiscal.

And be it Enacted, That in all streets or other places within any of
 25 the said Burghs or Towns where common sewers are now or may hereafter be constructed, it shall be lawful for any proprietor of a separate floor or flat, at the sight of the said Procurator Fiscal, or of a person of skill to be appointed by him, to erect one waste or foul water-pipe for the whole of the tenements on the back wall thereof on the outside, or
 30 in the common staircase, to communicate with any drain under ground leading into a common sewer, and to make such drain, if there be not one already, and afterwards to keep the same and the said pipe in sufficient repair, provided that the expense and damage (as the same shall be certified by the said Procurator Fiscal) occasioned by the con-
 35 structing and repairing of such pipe and drain shall be recoverable by the person disbursing the same from the proprietors of the whole floors or flats in the same tenement, in proportion to their respective rentals, to be ascertained by the assessment roll, to be made up as hereinbefore mentioned.

85.
One waste or
foul Water-
pipe may be
made for each
Tenement.

40 And be it Enacted, That the Magistrates and Councils of such Burghs or Towns respectively may provide One or more Fire-engines and Fire-cocks or Plugs as they may judge necessary in the said Burghs or Towns, and appoint fit persons for working the same, to be subjected to such rules and paid for their services in such manner as such Magistrates and

86.
Councils may
provide Fire-
engines, &c.,
and appoint
Firemen.

Councils shall direct ; and it shall be lawful for such Magistrates and Councils in cases of emergency to order such Fire-engines to be sent beyond the bounds of the Burgh or Town respectively, if they shall see cause so to do.

87.
Occupier of
Premises, in
which Chim-
ney or Funnel
takes Fire, to
be liable in
Penalty of 5s.

And be it Enacted, That if any Chimney, Flue or Funnel for con- 5
veying smoke within any such Burgh or Town shall be set on fire or shall
take fire, the Occupier of the premises to which such Chimney, Flue
or Funnel belongs shall be liable in a penalty of Five Shillings which
penalty when so recovered shall be paid by the said Procurator Fiscal
in manner to be ordered by the said Magistrates to the person or per- 10
sons (if any) who first reported the said fire to the said Procurator
Fiscal, or at the Police Office.

88.
Councils may
erect Steel-
yards and
Weigh-house,
and make
Regulations
applicable
thereto.

And be it Enacted, That the said respective Magistrates and Councils
may erect and maintain Steel-yards or other Weighing Engines, and also 15
a Weigh-house with proper weights, scales and measures in the said
Burghs or Towns respectively, for the use of the inhabitants thereof and
of persons resorting thereto, and may make such regulations and bye-
laws for regulating the same, and the dues to be exacted thereat, and for
compelling all persons residing or coming within the said Burghs or
Towns respectively to allow all goods or other articles sold or delivered 20
by them within the Burgh or Town to be weighed thereat, as the said
respective Councils shall from time to time think proper, and may enforce
obedience thereto under such penalty and forfeiture as they shall affix,
not exceeding Twenty Shillings for each offence.

89.
Brokers and
Dealers in
second-hand
Goods, other
than licensed
Pawnbrokers,
to register
Names and
Residence,
and produce
Articles and
Books when
required.

And be it Enacted, That all Brokers and Dealers in second-hand 25
goods other than Licensed Pawnbrokers resident within any such Burgh,
shall be bound, before commencing business, and annually thereafter,
to register their names and place of residence at the office of the
Town Clerk, from whom they shall obtain by way of license a Cer-
tificate of such registration, on payment of a fee of One Shilling; and 30
all Brokers and Dealers in second-hand articles, as well Pawnbrokers
as others, shall at all reasonable times produce on demand to the said
Procurator Fiscal or the officers acting under his orders all articles in
their possession which they may have purchased or received in
pawn, and shall also keep books in which the description of all such 35
articles shall be entered, and the name and designation of the party
from whom such articles have been purchased or received in pawn,
and shall produce such books when required as aforesaid; and failing
their so entering any article so purchased or received in pawn, they
shall for every failure be liable in a penalty not exceeding Five 40
Pounds, and such persons shall, on being informed that any articles
in their possession are suspected of having been stolen or frau-
dulently obtained from the owner, deposit the same with the said

Procurator

Procurator Fiscal, who shall be bound to grant a receipt therefor, and enter the same in a book in manner after directed, in order that they may be produced in such manner as may be necessary for the ends of justice, or restored by order of a Magistrate; and in case any such
 5 person shall fail to produce such articles or any of them when required, or to deposit any articles suspected of having been stolen or fraudulently obtained as aforesaid, the said Magistrates may grant warrant to search for and produce the same to the said Procurator Fiscal; and all persons dealing in second-hand articles without being
 10 duly licensed as aforesaid, or who shall be convicted, of offending against any of the provisions of this Act relative to such persons, shall be liable in a penalty not exceeding Five Pounds for each offence, without prejudice always to such persons being proceeded against according to law as Receivers or Resettlers of stolen goods, where there
 15 shall be grounds for such procedure: Provided always, That a book shall be kept by the said Procurator Fiscal, in which entries shall be made of all property deposited or seized and detained as aforesaid, as well as of the time and manner in which the same shall have been afterwards disposed of.

20 And be it Enacted, That any person who shall sell or expose to sale in any of the said Burghs or Towns any Butcher-meat, Flesh or Fish of an unwholesome nature, or any Bull-beef without having the words " Bull-beef" exhibited on a board in Roman characters of at least Three Inches in length and of a proportional breadth, in black letters
 25 upon a white ground, over the place or stall in which it is so exposed to sale, shall be liable in a penalty not exceeding Five Pounds for each offence, and warrant may be granted to imprison the offender till payment of the said penalty, but for a period not exceeding Thirty Days, and all officers of the law shall and are hereby required to seize any
 30 unwholesome Butcher-meat, Flesh or Fish sold or exposed to sale, and any Bull-beef sold or exposed to sale without a board marked as aforesaid, and bring the same forthwith before the Magistrates of such Burghs or Towns respectively, and such Butcher-meat, Flesh or Fish, and Bull-beef shall in all cases on conviction be declared for-
 35 feited, and be disposed of as the said Judge shall direct.

90.
 Unwholesome
 Meat or Fish
 may be seized,
 and Exposers
 fined.

And be it Enacted, That the Officers to be appointed under this Act may apprehend and bring before the Magistrates of such Burghs or Towns respectively for examination, all Vagrants and common Beggars found within any of the said Burghs or Towns, which they may be or-
 40 dained forthwith to leave, if they have no legal residence within the same, and if they have such residence in any Parish situated in whole or in part within the Burgh or Town where they are apprehended, then they shall be sent to such Parish, and if after the expiration of Forty-eight Hours they shall be again found idle or begging within such Burgh

91.
 Vagrants and
 common Beg-
 gars may be
 apprehended,
 and Persons
 harbouring
 them to be
 liable in a
 Penalty not
 exceeding
 20s. for each
 Offence.

or Town, they may be apprehended and committed to Prison as disorderly persons for a period not exceeding Thirty Days; and if any person within such Burghs or Towns shall knowingly harbour any person under sentence of banishment, or any vagrant, or any common beggar not having a legal domicile in the Parish where such person resides, and shall not give notice to some officer acting under the authority of this Act, in order that such banished person, vagrant or common beggar may be apprehended, every person so offending shall be liable in a penalty not exceeding Twenty Shillings for each offence, and to be imprisoned till payment of such penalty for a period not exceeding Thirty Days; and it shall be lawful for the said Procurator Fiscal, upon the information of any Police Officer, or other credible person, to enter, or specially authorize any Police Officer to enter at any time all tippling-houses, brothels and low lodging-houses within such Burghs or Towns respectively, where such banished persons, vagrants or common beggars are known or suspected to be harboured, and if entrance be refused to the said Procurator Fiscal or Officers, or if they be resisted, the person so refusing or resisting shall be liable in a penalty not exceeding Forty Shillings for each offence, and to be imprisoned till payment of such penalty for a period not exceeding Thirty Days.

92.
Thimblers,
Chain-drop-
pers and
loaded Dice-
players, &c.,
may be
ordered to quit
the Burgh or
Town, under
pain of Imprisonment.

And be it Enacted, That any Officer appointed under this Act may apprehend all thimblers, chain-droppers, loaded dice-players and all other persons who induce or entice any person to play at games of hazard on the streets, roads, lanes, passages or open places within the said Burghs or Towns, and carry them before the said Magistrates thereof, who may order them forthwith, at sight of such Officer, to quit such Burgh or Town, under the penalty, if they shall be thereafter found within the same practising any of the said arts or devices, of being committed to Gaol for a period not exceeding Thirty Days for each offence.

93.
Regulations
may be made
to prevent
danger from
Canine Mad-
ness.

And be it Enacted, That it shall be lawful for the Magistrates of such Burghs or Towns respectively, to issue such orders or proclamations as they shall judge proper relative to rabid or strayed Dogs, or to the confining or muzzling of all Dogs within such Burghs or Towns, for the purpose of preventing the dangers arising from canine madness; and the Officers appointed under this Act, and other Officers of the Law, are hereby authorized and required to seize and destroy all Dogs found within such Burghs or Towns contrary to such orders or proclamations; and the Owners of Dogs who shall disobey or neglect such orders or proclamations shall be liable in a penalty not exceeding Twenty Shillings for each offence, and to imprisonment till payment of the said penalty, for a period not exceeding Thirty Days.

94.
No Obstruc-
tion or Nui-
sance to be

And be it Enacted, That if any person or persons shall carry, push, roll, drive, draw, or cause to be carried, pushed, rolled, driven or drawn, on

- on any of the Foot-pavements within the said Burghs or Towns any sledge, cask or wheelbarrow, wheel or wheels, or any coach, waggon, cart or carriage whatsoever (except directly across the same on necessary occasions); or shall allow any of these or any other obstructions to remain
- 5 on any of the said pavements or streets; or shall wilfully ride, lead or drive any horse, ass, mule or cattle (except when going directly across such foot-pavements to or from stables or cowhouses) upon any part of such foot-pavements, or shall in any such streets, squares, lanes or passages drive any carriage or carriages for the purpose of breaking or
- 10 trying horses, or shall ride any horse for the purpose of breaking, trying, showing or exposing such horse for sale (otherwise than in the Public Market-place, and upon the market days, and during the ordinary market hours, or in passing through such streets or other public places); or kill or slaughter, or scald, singe, dress or cut up any animal upon
- 15 any of the said streets, roads or passages; or cause or permit any blood to run from any slaughter-house, butcher's shop or shamble into or upon any of the pavements or streets; or shall throw or cast any dirt, dung, ashes, rubbish, soil or foul water into or upon the same; or shall roll any cask, empty or full, along the foot-pavements for any distance
- 20 whatever (except across them directly to or from a cellar, shop or warehouse), or shall roll any such cask, except from a shop, cellar, warehouse or other place directly to such cart or carriage as it is to be loaded upon or from such cart or carriage as it has been loaded upon directly to the shop, cellar, warehouse or other place in which it is to be
- 25 deposited, not exceeding Thirty Yards in any case; or shall drive any cart or other carriage on the streets of the said Burghs or Towns, or any of the roads or passages within the limits over which this Act extends, furiously or improperly; or shall drive any four-wheeled carriage commonly called a wood-junker, without a person in charge of each pair
- 30 of wheels; or shall leave any cart or carriage standing on such streets, roads or passages, yoked or unyoked, either during the day or night; or shall ride any horse furiously or improperly, or drive any horse or cattle or carriage of any kind in an improper manner upon any of the said streets, roads or passages; or shall lead or drive any plank or
- 35 piece of timber exceeding the length of Twenty Feet upon or by means of any machine or carriage having less than four wheels; or suffer the loading of any cart, waggon or carriage to touch or drag upon any part of any such street or road; then it shall and may be lawful for any person who shall see such offence committed to seize such offenders, and by authority of this Act, and without any other warrant to convey
- 40 them before the said respective Magistrates, or to the custody of any Officer of Police, to be conveyed before the said Magistrates, and if the party accused shall be convicted of riding or breaking, exercising or drawing or driving any horse or cattle, cart or carriage furiously or improperly, such party shall be liable in a penalty not exceeding Five
- 45 Pounds for each offence; and if convicted of any other of the above

allowed on
Foot pave-
ments or
Streets; and
Parties offend-
ing to be
liable in
Penalties:
Furious driv-
ing, &c. to be
punished.

offences, such party shall be liable in a penalty not exceeding Twenty Shillings for each offence, and the offender may be ordered to be imprisoned till payment of such penalties for a period not exceeding Thirty Days for each offence.

95.
Regulations to
be observed as
to riding,
driving, &c.
on Streets.

And be it Enacted, That if the driver of any cart, waggon or other carriage shall drive on any street or other public place within the said Burghs or Towns respectively without having in his hands the reins or halter of each beast of draught drawing such carriage, or the foremost of such carriages if more than one, or shall ride on the shafts or any other part of such carriage within the said Burghs or Towns, or shall at any time quit the rein or halter and leave such carriage travelling on any street or other public place within any such Burgh or Town without having some person guiding the beasts or beast of draught by holding the rein or halter in his hand, or shall allow any dog attending him or his carriage to go at large and without being chained or fastened to such carriage, or if the driver of any carriage shall not keep to the left or near side of the road or street on meeting or being overtaken by any other carriage, or by any rider, or shall wilfully prevent any person from passing him or his carriage, or shall leave such carriage on any such street or other public place without a proper person in the sole care of it longer than necessary for loading and unloading, such driver shall for every such offence be liable in a penalty not exceeding Five Pounds, and to imprisonment till payment of the said penalty for a period not exceeding Thirty Days.

96.
Regulations
to be observed
as to loading
and driving of
carriages, &c.

And be it Enacted, That if the loading on any cart or other such carriage, or on any beast of burden within any of the said Burghs or Towns (except in the case of hay or straw), shall project more than One Foot laterally beyond the wheels of such carriage, or more than Thirty Inches from the side of such beast or burden, or so as improperly to obstruct any person, beast of burden or carriage, or if any person shall act as the driver of more than Two Carts or other such carriages on any street or other public places within such Burghs or Towns, or if the second of two carts or other such carriages, when under the care of only One person, shall be drawn by more than One Horse, or if the horse of such second cart or other carriage shall not be attached by a rein to the back of the cart which shall be foremost, and follow in the same line therewith, and within Six Feet from the same, the drivers shall for every such offence be liable in a penalty not exceeding Forty Shillings, and to be imprisoned till payment thereof for a period not exceeding Thirty Days.

97.
Signs and
Sign-boards
may be regulated, and
Stands, Stalls,
&c. encroaching
on Streets,
prohibited.

And be it Enacted, That it shall be lawful to the Magistrates of such Burghs or Towns respectively to cause all signs or sign-boards in the said Burghs or Towns to be affixed close on or flat to the wall of the buildings whereunto they respectively belong, and to order or cause to be removed

removed all signs, sign-posts, boards, sheds, dyers' scourers' or barbers' poles, or any other poles or other articles projecting or hanging over any of the foot-pavements, streets, squares, lanes or passages in any of the said Burghs or Towns, and all signs and sign-boards affixed to rails and
5 projecting beyond the line thereof, and all goods exposed at the doors of shops, or on stands, stalls or stables, so as to encroach on the foot-pavements or streets, and to prohibit the offer of goods for sale at shop-doors, or at any distance from the same, whereby passengers may be obstructed, and to prohibit persons from carrying baskets, boards or other
10 articles on the foot-pavements or paths, or from calling of auctions or sales at the windows or doors of shops or houses; and all persons failing immediately to comply with or acting contrary to any such order or prohibition shall be liable in a penalty not exceeding Twenty Shillings, and to be imprisoned, till payment of the said penalty, for a period
15 not exceeding Thirty Days.

And be it Enacted, That in all prosecutions under this Act it shall and may be lawful to proceed to try offences in the easiest and most expeditious manner, without the pleadings or evidence being reduced into writing: Provided always, That a record shall be preserved of the charge
20 and of the judgment, including the names of the witnesses examined on oath, unless where the accused pleads guilty, which shall be made to appear by a minute to that effect signed by him, if he can write, and if he cannot write such minute shall be signed by the Judge and by the Clerk of Court; and such record shall also set forth, if the prosecutor
25 or accused party desire it, any offer or proof made by either of those parties and refused to be admitted, and likewise, if so desired, any objections to the admissibility of evidence sustained or repelled by the Court, which record shall be in the form contained in the Schedule marked (K.) hereunto annexed; and the Judge so trying any such
30 offence shall preserve a note of the evidence taken by him on such trial, which Record and note of Evidence may be either in the hand-writing of the Judge, or written by the Clerk of Court, under his direction, but in either case it shall be authenticated by the Signature of the Judge; and such Judge shall exhibit the same, or a certified copy
35 thereof, in case it shall be required in the Court of Justiciary.

98.
Prosecutions under this Act to be summary, and Record to be preserved.

And be it Enacted, That all Warrants granted under this Act for Imprisonment till payment of penalties, or till caution shall be found, shall specify a period not exceeding the respective periods hereby prescribed at the expiry of which the person sentenced shall be discharged, notwithstanding such penalty shall not have been paid or
40 caution found; Provided always, That a copy of every such Warrant of Imprisonment, certified by the Clerk, shall be deemed a sufficient Warrant of Commitment.

99.
All Warrants for Imprisonment for Penalties, or till Caution found, to specify period at which person shall be liberated, though Penalties not paid or Caution found.

100.

No suspension competent to prevent payment or consignation of Penalties, and no Action to be competent against Judge under this Act, unless brought within Three Months, and on the ground of corruption or oppression.

And be it Enacted, That it shall not be competent to any Judge or Court to grant any sist or suspension of any decree or warrant granted by any Judge officiating under this Act, or so as to prevent immediate payment or consignment of the sum or sums found due and decerned for by such decree or warrant in the hands of the Clerk of the Court; 5 and no action shall be competent against such Judge officiating under this Act for any thing done in the execution of this Act, unless actual corruption or oppression be charged, nor shall such action be competent after Three calendar Months after the act complained of is committed.

10

101.

Summary poinding for Fines to be without prejudice to recovering them by ordinary Forms; but where resorted to, same Regulations to be observed as in poindings for Assessments.

And be it Enacted, That wherever authority is given by this Act to recover any costs, expenses or damages, or any fines, penalties or other sums at the instance of the said Procurator Fiscal, such costs, expenses or damages, and such fines, penalties or sums may, if not otherwise provided, be recovered summarily by poinding, in the same manner 15 and subject to the same rules in and under which the assessments leviable under this Act are directed to be recovered, but without prejudice to such costs, expenses or damages, fines, penalties or other sums being recovered by the ordinary forms of law.

15

102.

Nothing in this Act to exclude jurisdiction of Sheriffs or other Judges, except in so far as their jurisdiction expressly abolished.

And be it Enacted, That nothing herein contained shall be held to 20 affect or exclude the jurisdiction of the Sheriffs, or the Sheriff Substitutes of Counties within which any such Burgh or Town is situated, or of other Judges or Magistrates, except in so far as the jurisdiction of such Magistrates is hereby expressly abolished.

20

103.

Magistrates and Council may sue and be sued in name of Town Clerk or Treasurer.

And be it Enacted, That the Magistrates and Council of any of the 25 said Burghs or Towns shall and may respectively sue and be sued in the name of the Town Clerk or Treasurer for the time being: Provided always, That such Town Clerk or Treasurer shall not thereby incur any personal responsibility for expenses or otherwise, and that no action so raised or directed shall fall by reason of such Town Clerk or Treasurer 30 dying or ceasing to hold office.

30

104.

Rights to heritable Property may be taken to Town Clerk, in certain Form.

And be it Enacted, That the rights to all heritable property to be acquired for the purposes of this Act may be taken in favour of the Town Clerk for the time and his successors in office, and the deed or writing constituting such right may be in the following form: 35

35

" I, A. B.

in consideration of

paid to me [*or*, in consideration of the feu duty or annual rent of

agreed to be paid to me yearly

or half-yearly, as may be agreed on] by the Magistrates and

Town Council of the Burgh or Town of do 40

hereby dispone and convey to as Town

Clerk of the said Burgh or Town, and his successors in office

for behoof of the said Magistrates and Town Council, all

[describing

[describing the premises conveyed], and all my right, title and interest in the same, to be holden by the said Magistrates and Town Council, and their successors for ever, by virtue of an Act of Parliament made in the year of the reign of His Majesty King WILLIAM the Fourth, intituled, ‘ An Act to provide for the Appointment and Election of Magistrates and Councillors in certain Burghs of Regality and Barony and unincorporated Towns in Scotland.’ In witness whereof I have subscribed these presents, written by at
 5 this day of in the year of our
 10 Lord before these
 witnesses [*here insert the witnesses’ names and designations*].”

Which deed or writing being registered in the General or Particular Register of Sasines (and which the respective keepers of the registers
 15 are hereby authorized and required to register on the same being presented to them), shall receive the same effect, and be as valid and effectual to vest the property in the said Magistrates and Council and their successors in office as if a formal disposition had been executed in their favour, and followed by sasine according to the form of the law
 20 of Scotland, recorded of the same date that the said deed or writing is recorded, any law or practice to the contrary notwithstanding.

And be it Enacted, That it shall be lawful for the Magistrates and Council of any of the said Burghs or Towns from time to time to borrow money for carrying into effect the purposes of this Act, and to assign
 25 the Rates or Assessments hereby authorized to be levied in security of the repayment of the same, provided that the Rates and Assessments shall not be assigned for a period exceeding Five Years; and that no money shall be borrowed, and no such assignation shall be granted till after a report has been obtained from a Committee of the Council
 30 appointed for that purpose, stating the reasons which render such loan or assignation necessary or expedient, the amount proposed to be borrowed, and the purposes to which the money so to be raised is to be applied, which report shall be approved of by Two-thirds of the whole Council for the time by an Act of Council passed at a meeting of such
 35 Magistrates and Council, such meeting having been called by notice specifying the object of the meeting, and such notice, printed or legibly written, shall be affixed in the Town Clerk’s office, and upon the doors of the Council Chamber, Town Hall or Court House, or other place where the Council are in use to meet, and also upon the doors of the Parish
 40 Church or Churches within which the said Burgh or Town, or any part thereof, is situated, for One Month at least previous to such meeting; and a copy of such Act of Council shall in like manner be affixed in the Town Clerk’s Office and other places as aforesaid; Provided, that no such assignation shall be granted until after the expiry of Fourteen Days from the date of affixing such notice: Pro-

105.
 Money may be borrowed for the purposes of this Act, on security of the Assessments.

459

And such Bonds respectively shall, on being recorded as after mentioned, form a real lien on the Rates or Assessments authorized to be imposed and levied under this Act and assigned by such Bond, and shall entitle the Creditor under the same preferably to recover the sums

5 thereby due from the respective Magistrates and Councils of the said Burghs or Towns and their Officers out of the first and readiest of the rates or assessments assigned ; and no Member of Council or Officer acting under them shall be personally liable for the repayment of any money so borrowed.

10 And be it Enacted, That such Bonds may be assigned by indorsation on the back thereof respectively, in the following form ; (videlicet)

“ I, *E. F.*, do transfer this Bond, with all right, title and interest
which I have in the same, to *M. N.*, his heirs, executors and
assignees. In witness whereof, I have subscribed these presents
15 written by _____ at _____ the _____ day
of _____ before these witnesses,
O. P., Witness.
Q. R., Witness. *E. F.*”

And be it Enacted, That before such Bonds shall be delivered to the
 20 Creditor, or shall form a valid lien on the rates or assessments as afore-
 said, the same shall be recorded in the sederunt book of the Magistrates
 and Council of the Burgh or Town, and a certificate of such registration
 shall be indorsed on such Bond and signed by the Town Clerk; and such
 Assignations shall be notified to the said Treasurer and Town Clerk,
 25 the latter of whom shall enter in the said sederunt book the date of the
 said Assignment, the names of the parties thereto, the number of such
 Bond and the interest outstanding on the same, and the certificate of
 such entry shall be indorsed on the said Bond and signed by the said
 Treasurer and Town Clerk; and thereafter but not till then, the
 30 assignee, his heirs and executors, shall be entitled to the full benefit of
 such Bond.

108.
 Bonds and
 Assignations
 shall be re-
 gistered.

And be it Enacted, That in all cases where money shall be borrowed for the purposes of this Act on the security of the said rates and assessments, the Magistrates and Councils of the said respective Burghs or Towns are hereby authorized and required, at fixing the first annual assessment to be levied under this Act after such borrowing, to impose such additional assessment beyond the sum which would otherwise be necessary for the purposes of this Act, as will produce a Sinking Fund amounting to Five per centum per annum upon the sums so borrowed, which sum of Five per centum per annum the said respective Councils shall annually appropriate, set apart and invest, at the highest rate of interest which can be had for the same, in the public funds, or in any

of the chartered banks in *Scotland*, or on heritable security, to be applicable and to be applied by the said Council from time to time in the repayment of the money borrowed until the debt shall be extinguished: Provided always, That such additional assessment shall not increase the whole assessment in any one year beyond the foresaid maximum rate and assessment allowed to be imposed and levied by this Act; and provided further, That it shall not be lawful for the said respective Councils to borrow any money except where such Sinking Fund can be appropriated and set apart without the said maximum rate and assessment being exceeded.

110.

Treasurer to keep regular Books, which are to be examined and docqueted half-yearly.

And be it Enacted, That the Treasurer of each of the said Burghs or Towns shall keep a regular Cash Book and Ledger relative to the affairs of such Burgh or Town, which Cash Book shall be examined half-yearly, at the terms of Candlemas and Lammas, by a Committee of the Council to be appointed for that purpose, and shall be docqueted by such Committee and by the Treasurer; and the said Ledger shall be examined and docqueted in like manner at the term of Lammas yearly; and the said Cash Book and Ledger, when so docqueted, shall be held to form part of the records of the said Burgh or Town.

111.

Treasurer to make up State of his Intromissions annually.

And be it Enacted, That the said Treasurer shall, within One Month after the term of Lammas annually, make up a distinct account, ending as at that term, of his intromissions for the past year, which account shall be arranged in the form of charge and discharge, and each part thereof divided under proper heads, and shall, on or before the Fifteenth day of September annually, be examined and docqueted by a Committee of the Council, to be appointed for that purpose.

112.

Town Clerk annually to prepare State of whole Property and Debts, &c., to be published.

And be it Enacted, That after the Treasurer's Accounts and Books have been made up and docqueted as aforesaid, the said Town Clerk shall, on or before the First day of October, annually, prepare a complete and distinct State, showing, first, the whole common good and other property of the Burgh or Town, classed under different heads; secondly, the different debts due to and by the Burgh or Town, distinguishing the nature of such debts as heritable or moveable, and specifying the securities held for the same, and the cautionary obligations (if any) granted relative thereto; thirdly, the amount of each branch of the annual revenue, distinguishing how much has been received, and how much is in arrear, and the year for which such arrears are outstanding, and showing also what abatements, if any, have been given; fourthly, the amount of all sums received during the year, from whatever sources, distinguishing whether such sums have been received as loans, prices or otherwise; fifthly, all sums paid, and all sums due and unpaid, during the year, distinguishing the fixed or ordinary from the casual or incidental expenditure; and the said State shall

shall be examined by a Committee of the Council, to be appointed for that purpose, and docketed by such Committee and by the Town Clerk; and an abstract of the said State shall be immediately prepared by the Town Clerk, and after being approved of by a Minute of
 5 Council, a copy thereof shall, on or before the Tenth day of October, annually, be affixed to the door of the Town House, if there be such, and upon the doors of the Parish Church or Churches within which each Burgh or Town, or any part thereof, is situated; and if the revenue of such Burgh or Town exceed One hundred Pounds annually,
 10 the said abstract shall, besides being so published, be printed on or before the said Tenth day of October, annually, and a copy thereof delivered gratis at the Town Clerk's Office to any qualified Elector who shall demand the same: Provided always, That the said whole Books, States, Accounts and Abstract, with the whole vouchers thereof, shall
 15 lie in the Town Clerk's Office from and after the said Tenth day of October, annually, for the space of Three calendar Months, open to the inspection of all persons liable to be assessed under this Act, without the payment of any fee; and such Books, Accounts and Vouchers shall, at all other times, be exhibited to any such person
 20 demanding the same, on payment of a fee not exceeding Two Shillings and Sixpence per Hour, payable to the person having the lawful custody of such Books, Accounts and Vouchers for the time.

And be it Enacted, That separate books and accounts of all trusts, mortifications and endowments of which the Magistrates, or the
 25 Magistrates and Council of any Burgh shall be the trustees or managers, or which shall in anywise be committed to their charge, or when the Magistrates and Councillors form a majority of the Trustees, shall be kept, showing the property, revenue and expenditure of the trust.

113.
 Separate
 Books and
 Accounts of
 Trusts to be
 kept.

And be it Enacted, That such separate trust-books shall be brought
 30 to a balance within Fourteen Days after the term of Lammas in each year; and before the First day of October, annually, a State of the trust-property shall be prepared by the Town Clerk, or other person having the charge of the books and accounts of the trust, exhibiting, as nearly as may be, the several particulars hereinbefore directed to be
 35 contained in the state of the property of the several Burghs required to be prepared by the respective Town Clerks, before the First day of October annually, and if the trusts shall be for purposes of education or charity, the state shall set forth the manner in which the estate has been administered and applied; and in cases where the annual
 40 income exceeds One hundred Pounds, an abstract shall be prepared, published and exhibited in the same manner as is prescribed in regard to the abstract of the state of the affairs of the Burgh; and the books and accounts of the trust shall be open for inspection, and for the like time

114.
 Trust-Books
 to be balanced,
 and state of
 Fund to be
 made up an-
 nually.

as hereinbefore provided in regard to the books and accounts of the Burgh; and the Town Clerk or other officer in charge of the books and accounts of the trust shall, for any wilful failure or neglect in performance of the duties hereby imposed upon him, be subject and liable to a penalty of not less than Fifty Pounds.

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115.
Magistrates to
make declara-
tion of Trusts.

And be it Enacted, That where any trust-fund is vested in securities taken in the names of any Magistrates or Councillors individually, or in the name of any individual Magistrate or Councillor, such Magistrates or Magistrate, Councillors or Councillor, shall subscribe a declaration of trust in the Council-books of the Burgh in relation to such trust-fund, and declaring the purposes and conditions for and on which they or he hold or holds the same: Provided always, That such declaration of trust shall not be subject or liable to any stamp duty.

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116.
Valuation of
Burgh Pro-
perty.

And be it Enacted, That within Twelve Months after the passing of this Act, and Once in every Seven Years thereafter, the Magistrates and Council of every such Burgh or Town shall cause the whole of the lands, heritages and moveable property of every description thereto belonging to be valued by skilful persons, whose estimation thereof shall be formed upon the worth of such property at the time and according to the price which it would then bring in the market if sold, and without reference to any prospective or contingent value not influencing such property at the time; and the Valuers employed shall make up a state of the value of all such properties under distinct and appropriate heads, and such state shall be entered in the Council-books of the Burgh or Town by the Town Clerks thereof within One Month after such valuation shall have been made; and if the Magistrates and Councillors in office when such valuation is required to be made shall fail to cause the same to be made, they shall each be individually liable in a penalty of not less than Fifty Pounds, and if any Town Clerk of any Burgh or Town shall fail to enter the same in the Council-books within the time hereinbefore prescribed, he shall be liable in a penalty of Fifty Pounds.

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117.
Regulating
Alienation and
Borrowing.

And be it Enacted, That it shall not be lawful for the Magistrates and Council of any Burgh or Town to sell or alienate all or any part of the lands or heritages belonging to the same by sale or excambion, or to borrow any money upon the credit of the heritable property of the Burgh or Town, unless previous to such Alienation or Borrowing, the same shall have been agreed to by Two-third parts of the whole Magistrates and Council thereof, by an Act of Council passed at a meeting of such Magistrates and Council, such meeting having been called by notice, specifying the lands or heritages proposed to be alienated, and the amount of the money proposed to be borrowed, and the reasons which render such Alienation or Borrowing necessary or expedient;

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expedient; and such notice printed or legibly written shall also be affixed in the Town Clerk's Office, and on the doors of the Council Chamber, Town Hall, or Court-house or other place where the Council are in use to meet, and upon the doors of the parish Church or Churches within which the said Burgh or Town or any part thereof is situated for One Month at least previous to such meeting; and such Act of Council shall in like manner be affixed in the Town Clerk's Office, and other places before specified: Provided that no sale shall be completed until Fourteen Days after public intimation has been given in the manner prescribed as to the aforesaid notice of the price proposed to be paid by the purchaser and to be accepted by such Magistrates and Council: Provided always, That all such Alienations and Loans shall be null and void unless such notice and publication shall have been so given and made.

15 Provided always, and be it Enacted, That nothing herein contained shall prevent the Magistrates and Council of any Burgh or Town from feuing or granting building leases of the lands or heritages belonging to such Burgh or Town: Provided also, That no lands shall be feued and no building leases granted for a price in a gross sum, or for a fine or
20 grassum, but the consideration to be taken shall be in the shape of an annual feu duty or ground rent, and no leases of any heritable property, except building leases, shall be let for a longer period than Twenty-one Years; nor shall any lease of any of the revenues, customs or imposts of any Burgh or Town be granted for a longer period
25 than Three Years, and no such leases, either of heritable property, or of revenues, customs or imposts, shall be granted, unless upon the authority of a previous Act of Council, a copy of which shall be affixed in the Town Clerk's Office, and upon the doors of the Council Chamber, Town Hall or Court House, or other place where the
30 Council are in use to meet, and upon the doors of the parish Church or Churches within which the said Burgh or Town or any part thereof is situated, for One Month at least previous to granting such feus or leases; and which Act of Council shall contain a description of the lands or heritages proposed to be feued or let, and the conditions upon
35 which such feu or lease is to be granted; and any feu or lease granted otherwise than in terms of these provisions shall be null and void.

118.
Lands not to be feued, or building leases granted for a Price or Grassum.

AND whereas in certain of the said Burghs or Towns various exclusive privileges have been conferred by charter or otherwise, whereby persons not being burgesses, heritors or feuars are prevented and excluded from dealing in trade and merchandize, or exercising trades, crafts or callings within such Burghs or Towns for gain, sale, hire or payment; BE it Enacted, That after the passing of this Act it shall be lawful for any person to practise or deal in any lawful trade or merchandize, and to exercise and carry on any lawful calling, trade or

119.
Exclusive privileges abolished.

occupation for sale, gain, hire or payment or otherwise, within any such Burgh or Town, any law, statute, charter, usage or other right or authority to the contrary notwithstanding: Provided, that nothing herein contained shall be deemed or taken to affect any right of property or commony, or servitude enjoyed by burgesses, heritors or feuars, within any of the said Burghs or Towns, or any immunity during the lives of existing burgesses, heritors or feuars in the payment of harbour rates or other duties, which such burgesses, heritors or feuars possessed or enjoyed before the passing of this Act. 5

120.
Penalty for
wilful Mal-
versation.

And be it Enacted, That if any Sheriff or Sheriff's Clerk, Magistrate, Councillor, Town Clerk, or other person shall wilfully contravene or disobey the provisions of this Act, he shall be liable to be sued for such offence in the Court of Session by any person aggrieved, for the penal sum of Fifty Pounds, which sum, or any smaller sum which may be assessed by the Jury in any such action, the Defender upon conviction shall pay with full costs of suit: Provided always, That every such action shall be raised within Four calendar Months after the cause of action shall have arisen, and that notice in writing shall be given to the Defender at least One calendar Month before raising the same: Provided also, That any such Defender against whom judgment shall have been once recovered in such action, shall be entitled to plead such judgment as a bar to any other action which may be brought against him for the same matter or thing; and such other action being thereupon dismissed, such Defender shall recover his full costs of suit. 10 15 20 25

121.
Three regis-
tered Electors
may prosecute
for Penalties,
&c. &c.

And be it Enacted, That it shall be lawful for any Three registered Electors to complain by summary petition, either to the Court of Session or the Sheriff of the County, against any person or persons for breach of any of the regulations imposed by virtue of this Act, or for the enforcement of the performance of the duties or observances, or the payment of any of the penalties hereby prescribed or imposed, or to apply summarily to such Court or Sheriff as aforesaid for interdict against any wrong done or contemplated against such Burgh or Town, or community, or the property thereof; and in case no such complaint shall be made by the Electors as aforesaid, it shall be competent for the Lord Advocate of *Scotland* for the time being, when he shall consider it expedient for the public interest, to sue by summary application for the redress or punishment of any abuse or malversation or mismanagement which he may conceive to have taken place; and that either in the Court of Session, in his own name or through the Procurator Fiscal in the Sheriff Court; provided that every such complaint or application shall be lodged within Three Months of the date of the cause of complaint, and that within Fourteen Days thereafter the private parties so complaining shall have found caution to such amount as such Court or Sheriff may require 30 35 40

require for the payment of the costs to which such parties may eventually be subjected.

And be it Enacted, That in all prosecutions for penalties such Court or Sheriff shall award costs to the party in whose favour the decision of such Court or Sheriff shall be pronounced, and no part of any penalty, or the cost attending the prosecution for the same decerned for against the Magistrates and Council or the Office-bearers of any Burgh or Town, shall be paid from or charged against the funds thereof; and in all such other suits or complaints such Court or Sheriff shall have full power to decide regarding costs.

122.
Costs to be awarded in favour of the successful Party in Suits for Penalties.

And be it Enacted, That it shall be competent and lawful for any registered Elector to sist himself as Complainer or Pursuer in any suit or complaint, in concurrence with the original Pursuers or Complainers, or if they shall have withdrawn or become incompetent to prosecute such suit or complaint, or shall have ceased to be parties, then any other Electors shall be entitled to prosecute such suit or complaint as Pursuers or Complainers, so that there shall always be not fewer than Three Pursuers or Complainers, such new parties finding caution as aforesaid for the payment of such subsequent costs as may eventually be awarded against them.

123.
Registered Electors may sist themselves in Suits or Complaints.

And be it Enacted, That the penalties to be levied under this Act shall be applied towards the defraying the municipal and other expenses of the Burgh or Town in which the same shall be so levied.

124.
Application of Penalties

And be it Enacted, That no irregularity or nullity in the election of any Councillors or Magistrates shall in any case after the passing of this Act annul or affect the election of other Councillors or Magistrates not liable to the same grounds of objection, but those particular elections only in which such irregularity or nullity shall have occurred.

125.
Irregularity in the election of Councillor to affect themselves only.

And be it Enacted, That the word "Sheriff" shall be held to include the word "Stewart," and "Sheriff Substitute" and "Stewart Substitute;" and that the words "Shire" or "County" shall be held to include the word "Stewartry;" and the words "Sheriff Clerk" shall be held to include the words "Stewart Clerk," and "Sheriff Clerk Depute" and "Stewart Clerk Depute;" and the words "Town Clerk" shall be held to include the words "Town Clerk Depute," and the words "Local Act" shall be held to mean Acts applicable only to a particular place or places although declared in the body thereof to be a Public Act, unless it be otherwise provided, or the subject-matter or context be repugnant to such construction; and that no misnomer or inaccurate description of any person or place, in any writing made in the form of any Schedule

126.
Meaning of certain Words in this Act.

Misnomers not to vitiate Proceedings.

to this Act annexed, or in any description, list, register or notice, or other writing, made under the authority of this Act, shall in any way prevent or abridge the operation of this Act; provided that such person or place shall be so designated in such writing, description, list, register or notice as to be commonly understood: Provided also, That no appeal shall be competent to any Sheriff or Stewart from any thing which may be done by their Substitutes in the execution of this Act. 5

127.
Acts inconsis-
tent with this
Act repealed.

And be it Enacted, That all laws, statutes and usages now in force in relation to any of the aforesaid Burghs or Towns, in so far as inconsistent or at variance with the provisions of this Act, shall be and the same are hereby Repealed: Provided always, That the same shall in all other respects be of full force and effect. 10

128.
Act may be
altered.

And be it Enacted, That this Act may be repealed, altered or amended by any Act or Acts to be passed in the present Session of Parliament. 15

SCHEDULES

REFERRED TO IN THE FOREGOING ACT.

SCHEDULE (A.)

FIRST CLASS.

Alloa	-	-	-	-	-	} Fifteen Councillors, of whom Three to be elected Bailies (one of whom shall be elected Senior or Chief Magistrate), and One to be elected Treasurer.
Cotton	-	-	-	-	-	
Crieff	-	-	-	-	-	
Dalkeith	-	-	-	-	-	
Dunblane	-	-	-	-	-	
Girvan	-	-	-	-	-	
Hawick	-	-	-	-	-	
Johnston	-	-	-	-	-	
Kelso	-	-	-	-	-	
Kirkintilloch	-	-	-	-	-	
Kirriemuir	-	-	-	-	-	
Maybole	-	-	-	-	-	
Newton-upon-Ayr	-	-	-	-	-	
* Old Aberdeen	-	-	-	-	-	
* Pollockshaws	-	-	-	-	-	
Strathaven	-	-	-	-	-	

Note.—The Burghs or Towns
marked thus *, to have a Provost.

SCHEDULE (B.)

SECOND CLASS.

Auchterarder	-	-	-	-	-	} Twelve Councillors, of whom Two to be elected Bailies (one of whom shall be elected Senior or Chief Magistrate), and one to be elected Treasurer.
* Bathgate	-	-	-	-	-	
Beith	-	-	-	-	-	
Borrowstounness	-	-	-	-	-	
Coldstream	-	-	-	-	-	
Cumnock (Old)	-	-	-	-	-	
Denny	-	-	-	-	-	
Dunse	-	-	-	-	-	
Fraserburgh	-	-	-	-	-	
Galashiels	-	-	-	-	-	
Galston	-	-	-	-	-	
Grangemouth	-	-	-	-	-	
Huntly	-	-	-	-	-	
Keith	-	-	-	-	-	
Kilsyth	-	-	-	-	-	
Kincardine (Perthshire)	-	-	-	-	-	
Largs	-	-	-	-	-	} Note.—The Burghs or Towns marked thus *, to have a Provost.
Lerwick	-	-	-	-	-	
* Macduff	-	-	-	-	-	
* Maxwelton	-	-	-	-	-	
Newmilns (Ayrshire)	-	-	-	-	-	
Saltcoats	-	-	-	-	-	
Stewarton	-	-	-	-	-	
Stonehaven	-	-	-	-	-	
Stornoway	-	-	-	-	-	
Stromness	-	-	-	-	-	
Thurso	-	-	-	-	-	

SCHEDULE (C.)

THIRD CLASS.

Aberfeldie	-	-	-	-
Abernethy	-	-	-	-
Alyth	-	-	-	-
Ardrossan	-	-	-	-
Balfron	-	-	-	-
Ballantrae	-	-	-	-
Blairgowrie	-	-	-	-
Bowmore	-	-	-	-
Broughty Ferry	-	-	-	-
Buckhaven	-	-	-	-
Buckie	-	-	-	-
Callander	-	-	-	-
Campbeltown (Inverness-shire)	-	-	-	-
Carlisle	-	-	-	-
Carnwath	-	-	-	-
* Castle Douglas	-	-	-	-
Catrine	-	-	-	-
Ceres	-	-	-	-
Clackmannan	-	-	-	-
Comrie	-	-	-	-
Coupar-Angus	-	-	-	-
Creetown	-	-	-	-
Crosshill	-	-	-	-
Cumbernauld	-	-	-	-
Dalbeattie	-	-	-	-
Dalmellington	-	-	-	-
Dalry (Ayrshire)	-	-	-	-
Darvel	-	-	-	-
Douglas	-	-	-	-
Doune	-	-	-	-
Dunkeld	-	-	-	-
Dunoon	-	-	-	-
Eyemouth	-	-	-	-
Ferry-Port-on-Craig	-	-	-	-
Fochabers	-	-	-	-
* Gatehouse of Fleet	-	-	-	-
Gourock	-	-	-	-
Kennoway	-	-	-	-
Kettle	-	-	-	-
Kilbarchan	-	-	-	-
Kilmaurs	-	-	-	-
Kilwinning	-	-	-	-
Kinross	-	-	-	-
Langholm	-	-	-	-
Laurencekirk	-	-	-	-
Lennoxtown of Campsie	-	-	-	-
Leslie	-	-	-	-
Letham	-	-	-	-
Leven	-	-	-	-

Nine Councillors, of whom Two to be elected Bailies (one of whom shall be elected Senior or Chief Magistrate), and one to be elected Treasurer.

Note.—The Burghs or Towns marked thus *, to have a Provost.

Schedule (C.) Third Class—continued.

Limekilns	-	-	-	-
Linktown (Fifeshire)	-	-	-	-
Lockgelphead	-	-	-	-
Lochwinnoch	-	-	-	-
Lockerbie	-	-	-	-
Markinch	-	-	-	-
Mauchlin	-	-	-	-
Melrose	-	-	-	-
Milnathort	-	-	-	-
Minnyhive	-	-	-	-
Moffat	-	-	-	-
Muirkirk	-	-	-	-
Muthill	-	-	-	-
Neilston	-	-	-	-
Newton-Stewart	-	-	-	-
Ochiltree	-	-	-	-
Old-Meldrum	-	-	-	-
Port-Patrick	-	-	-	-
Portsoy	-	-	-	-
Prestonpans	-	-	-	-
Rosehearty	-	-	-	-
Saint Monance	-	-	-	-
Stevenston	-	-	-	-
Strathmiglo	-	-	-	-
Tarbolton	-	-	-	-
Thornhill (Dumfriesshire)	-	-	-	-
Tobermory	-	-	-	-
Tranent	-	-	-	-
Troon	-	-	-	-
Turriff	-	-	-	-
Wishaw	-	-	-	-

SCHEDULE (D.)

PART FIRST.

Burgh or Town of

I, A. B. [insert designation] hereby claim to be inrolled as a Voter for the Town Councillors of the said Burgh or Town as proprietor, or tenant or occupant of the house, shop, &c., situated in [here insert the situation of the premises described by the street, or other locality] and [in cases where the claimant chooses to make such production] in support of my claim I produce herewith a [disposition, seisin, lease, &c., dated, &c., as the case may be].

[Dated]

(signed) A. B.

PART SECOND.

Number lodged with me, C. D., Sheriff Clerk [or, Town Clerk, as the case may be] of this day together with the disposition, seisin, lease, &c., above written [in cases where any such documents are lodged].

(signed) C. D.

SCHEDULE (G.)

[Place and Date.]

To the Sheriff of the County of

We, a majority in number of the registered Electors of the Burgh or Town of do hereby desire you to declare that the said Burgh or Town has adopted the provisions of an Act passed in the year of the reign of His Majesty King WILLIAM the Fourth, intituled, "An Act" [*insert the title of this Act*], and to take the necessary steps required by the said Act for placing the said Burgh or Town under and subject to the same.

(signed)

[By a majority of the qualified Electors.]

SCHEDULE (H.)

I, *A. B.*, do solemnly swear [*or, affirm*] that I am the individual described in the List or Roll of Electors for the Burgh or Town of as *A. B.* of [*here insert description in the same words as contained in the Roll*], that I am still the Proprietor [*or, Occupant, or, Tenant*] of the Property for which I am so inrolled, and hold the same for my own benefit, and not in trust for or at the pleasure of any other person, and that I have not already voted at this election.

SCHEDULE (I.)

I, *A. B.*, do solemnly swear [*or, affirm*] that I have not received or had by myself, or any person for my use or benefit, any sum or sums of money, office, place or employment, gift or reward, or any promise or security for any money, office, place or employment, or gift or reward, in order to give my vote at this election.

SCHEDULE (K.)

I. COMPLAINT.

Unto the Magistrates of the Burgh or Town of

The Complaint of *A. B.*, Procurator Fiscal of the said Burgh, [*or*,
other party with his concurrence.]

Humbly sheweth,

That *C. D.* has been guilty of the crime [*or*, offence] of Theft [*or*,
other crime or offence] actor or art and part, in so far as [*here state the
particulars of the crime or offence, specifying as nearly as may be
the time and place where it was committed, and also specifying that
the money or the value of the articles stolen, resetted, or obtained by
falsehood, fraud and wilful imposition, where these crimes are charged,
did not exceed Ten Pounds*].

May it therefore please your Honors to grant Warrant to apprehend
the said *C. D.* and bring him before you [*or*, to cite him to appear
before you] to answer to this Complaint, and thereafter to [*here specify
what is concluded for*].

According to Justice.

A. B.

II. DELIVERANCE ON COMPLAINT.

[*Place and Date.*]

Grants Warrant to officers of Court to apprehend the before designed
C. D., and to bring him [*or*, to cite him to appear] to answer to the
foregoing Complaint, on the day of at
of the clock , and also grants Warrant to cite witnesses for
both parties.

[*When stolen goods or the like are to be searched for, this will be
included in the Complaint and Warrant.*]

E. F.

III. PROCEDURE.

[*Place and Date.*]

Compeared the said *C. D.*, and the Complaint being read over to
him, he answers, that

C. D.

E. F.

[*If*

[If it be thought necessary to adjourn the diet.]

Adjourns the diet to the day of at of
the clock , and in the mean time grants Warrant to incarcerate
the said *C. D.* in the Tolbooth of to be detained
till that time [or, until he finds caution to appear at all future diets
of Court, under a penalty of Pounds, *being not greater than the
penalty for which he would be liable if convicted*].

E. F.

[Place and Date.]

Compeared the said *C. D.*

The following witnesses were examined upon oath in support of the
Complaint, videlicet,

G. H.

I. K.

And the following witnesses were examined on oath in exculpation
videlicet,

L. M.

N. O.

IV. SENTENCE.

Finds
and therefore [*here add the terms of the sentence*].

(signed) *E. F.*

Burghs of Barony (Scotland.)

A

B I L L

[AS AMENDED BY THE COMMITTEE]

To provide for the Appointment and Election
of Magistrates and Councillors in certain
Burghs of Regality and Barony, and unincorporated Towns in Scotland.

(Prepared and brought in by
Sir Andrew Leith Hay and Sir Henry Parnell.)

[Price 8d.]

Ordered, by The House of Commons, to be Printed,
22 May 1837.



A

B I L L

To continue for a limited time the Powers of the Commissioners for inquiring concerning Charities in England and Wales.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WH ~~EREAS~~ an Act was passed in the fifth and sixth years of the reign of His present Majesty, intituled, “An Act for appointing Commissioners to continue the Inquiries concerning Charities in England and Wales until the First Day of March One
5 : thousand eight hundred and Thirty-seven:” AND whereas the Commissioners appointed under and by virtue of the said Act have pursued the Inquiries thereby authorized and directed, and have made Reports of their proceedings; BUT further time is required for enabling them to complete their Inquiries; ~~BE it therefore Enacted~~, by The
10 K ING’s most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the said Act shall be and the same is hereby continued from the expiration thereof until the *First day of July One thousand eight hundred and Thirty-seven.*

Preamble :

5 & 6 Will. 4,
c. 71.

Printed Act
continued until
1st July 1837.

Charity Commissioners.

A

B I L L

To continue for a limited time the Powers of the Commissioners for inquiring concerning Charities in England and Wales.

(*Prepared and brought in by*
Mr. Solicitor General and Mr. Fox Maule.)

Ordered, by The House of Commons, to be Printed,
15 February 1837.

13 July 1837.—1 VICT.

Ecclesiastical Appointments Suspension Bill.

AMENDMENTS MADE BY THE LORDS

TO THE

ECCLESIASTICAL APPOINTMENTS SUSPENSION BILL.

AT the end of the BILL, add Clauses (A.) and (B.)

AND whereas his late Majesty was graciously pleased, in conformity with Addresses of The House of Commons, to acquaint the said House, that he would confer dignities in the Church upon the Reverend *Frederick Vernon Lockwood*, Master of Arts, the Reverend *Edward Repton*, Master of Arts, and the Reverend *Temple Frere*, Master of Arts, who had severally filled the Office of Chaplain to the said House; BE it hereby Enacted, That nothing in this Act shall be construed to preclude Her Majesty, if Her Majesty shall so think fit, from giving effect to his late Majesty's gracious intention, as expressed in answer to the above-mentioned Addresses of The House of Commons. CLAUSE (A.)

Provided always, and be it Enacted, That nothing contained in this Act shall be construed to prevent any Bishop or Archdeacon, to whom ecclesiastical jurisdiction and authority over any parts of *England* or *Wales* shall have been given by any Order in Council, under the provisions of the said last recited Act passed in the Session held in the sixth and seventh years of the reign of his late Majesty, from holding Visitations of the Clergy, and at such Visitations admitting Churchwardens, receiving Presentments, and doing all other acts, matters and things by custom appertaining to the Visitation of Bishops and Archdeacons in the places assigned to his jurisdiction and authority, under the enactments of the said recited Act: Provided also, That nothing contained in this Act shall be construed to prevent any Bishop from consecrating a new Church or Chapel, or a new Burial-ground within his diocese, as assigned by the provisions of the said recited Act. CLAUSE (B.)

**Ecclesiastical Appointments Suspension
Bill.**

A M E N D M E N T S

Made by The Lords

TO

**The ECCLESIASTICAL APPOINTMENTS
SUSPENSION BILL.**

*Ordered, by The House of Commons, to be Printed,
13 July 1837.*

8 May 1837.—7 WILL. IV.



(Ireland.)

A

B I L L

For the better Regulation of Ecclesiastical Revenues, and the
Promotion of Religious and Moral Instruction in Ireland.

[Note.—The Words and Clauses printed in *Italics* are proposed to be
inserted in the Committee.]

WHEREAS it is expedient to abolish Compositions for Preamble:
Tithes in Ireland; and in lieu thereof to substitute Rent-
charges, payable by persons having a perpetual estate or interest in
the lands subject thereto, a reasonable allowance being made for the
greater facility and security of collection arising out of such transfer
of liability from the Occupiers to the Owners of lands: AND whereas
it is also expedient to make provision for the better distribution of
Ecclesiastical Duties and Revenues, and for the promotion of Moral
and Religious Instruction in Ireland; BE it therefore Enacted, by
The KING's most Excellent MAJESTY, by and with the Advice and
Consent of the Lords Spiritual and Temporal, and Commons, in this
present Parliament assembled, and by the Authority of the same,
THAT the right of all persons in and to all Tithes or Compositions
for Tithes at any time hereafter to accrue due in Ireland shall wholly
cease and determine.

I.
Compositions
for Tithes
abolished.

Provided always; and be it Enacted, That the several persons who
would have been entitled to the receipt of the said Compositions for Tithes,
if this Act had not been passed, shall be and remain liable to The King's
Majesty for the repayment by instalments of the advances made under
authority of an Act passed in the third and fourth years of the reign of
His present Majesty, intituled, "An Act for the Relief of the Owners of
Tithes in Ireland, and for the Amendment of an Act passed in the last
Session of Parliament, intituled, 'An Act to amend three Acts passed
283. A respectively

2.
But without
prejudice to
the Provisions
of 3 & 4 Will.
4. c. 100.

respectively in the fourth, fifth, and in the seventh and eighth years of the reign of his late Majesty King GEORGE the Fourth, providing for the establishing of Compositions for Tithes in Ireland, and to make such Compositions permanent," and that the several sums directed by the said Act to be added to and made payable, together with and in addition to the said Compositions, shall be payable to and recoverable by the persons who would have been entitled to the said Compositions by and from the persons who would have been liable to the payment of such Compositions, if this Act had not been passed, as if such sums had been by the said Act made separately payable and recoverable as Compositions for Tithes, and that, save as aforesaid, all and every the provisions in the said Act contained in any way relating to the recovery of such instalments and sums, or enabling any person liable to the payment of such Compositions to recover against any person any sum whatsoever on account of such liability, shall, until Parliament shall otherwise provide, remain in full force and effect as if the right to the said Compositions were still subsisting.

3.
All Lands subject to the payment of Tithe Compositions charged with an annual sum by way of Rent-charge, equal to Seven-tenths of such Compositions, to be payable by the Party having the first Estate of Inheritance, &c. in such Lands.

And be it Enacted, That every parcel of land charged with or in respect whereof the said Tithe Compositions or any applotment or assessment thereof would have been payable if this Act had not been passed, shall be and become severally liable to and charged with the payment of an annual sum or Rent-charge equal to *Seven-tenths* of the annual amount of such Tithe Compositions, and that such Rent-charges shall be payable by the party having in such lands respectively the first estate of inheritance, or other estate or interest equivalent to a perpetual estate or interest as hereinafter defined, under which or derived wherefrom there shall be no such perpetual estate or interest, according to the quantity of such lands comprised in each such estate or interest; and that the first payment of such Rent-charges shall become due on the *First* day of *November* in this present year, and the subsequent payments thereof on the *First* day of *November* in each succeeding year: Provided, That although such Tithe Compositions may have been separately applotted or assessed upon different portions of such lands, the lands comprised in each such estate or interest shall be charged with the annual payment as aforesaid of one entire sum or Rent-charge equal to *Seven-tenths* of the gross annual amount of such several applotments or assessments: Provided further, That the amount of such Rent-charges shall be computed on the gross amount of such Tithe Compositions as stated in the certificates thereof respectively, without regard to the deduction of *Fifteen* Pounds per centum claimable by persons undertaking the payment of such Tithe Compositions under the provisions of an Act passed in the second and third years of His present Majesty's reign, intituled, "An Act to amend three Acts passed respectively in the fourth and fifth and in the seventh and eighth years of the reign of his late Majesty King GEORGE

GEORGE the Fourth, providing for the establishing of Compositions for Tithes in Ireland, and to make such Compositions permanent."

And be it Enacted, That any estate or interest held under any deed or instrument containing any provision, contract or covenant for the perpetual renewal thereof, and any estate or interest held for any term of years, whereof at least *One hundred* shall be to come and unexpired on the *Thirtieth* day of *October* in this present year, and any estate held by lease or demise immediately from and under any Archbishop, Bishop, or other ecclesiastical person, in any lands belonging to the see or other spiritual promotion or dignity of such Archbishop, Bishop, or other ecclesiastical person, or under the Ecclesiastical Commissioners for Ireland, being parcel of the lands vested or which may become vested in them under the provisions of an Act made in the third and fourth years of the reign of His present Majesty, intituled, "An Act to alter and amend the Laws relating to the Temporalities of the Church in Ireland," shall be deemed and taken to be, for all purposes relating to the said Rent-charges, equivalent to a perpetual estate or interest; and that each Tenant in dower or Tenant by courtesy, and each person having, under the limitations of any settlement by deed, will, Act of Parliament or otherwise, any estate for life or other particular estate thereby created or limited, out of or in any estate of inheritance, or out of or in any such equivalent estate as hereby defined, shall be, during such his interest, liable to the payment of such Rent-charge as fully to all intents and purposes as if he were seised of or entitled to the whole estate in such inheritance or perpetual interest.

4.
What shall be deemed equivalent to an Estate of Inheritance or Perpetual Estate.

3 & 4 Will. 4, c. 37.

And be it Enacted, That where, by the laws now in force in Ireland, any person shall be entitled to hold and occupy under any lease or demise the lands thereby demised free from the payment of Tithes or Composition of Tithes, he shall not be liable to the payment of the said Rent-charge, but the party having in such lands the first estate of inheritance or other equivalent estate or interest as before described, expectant or in reversion, and who would not be entitled to a like exemption under the laws aforesaid, shall be liable to such payment: And provided further, That in case of the forfeiture, surrender or other determination of any estate or interest, the owner whereof may be liable to the payment of such Rent-charge as aforesaid, the party having the first estate of inheritance or other equivalent estate or interest as before described, in remainder or reversion, shall become liable to the said payment of such Rent-charge: And provided further, That in case of any such devolution of interest, no more than the amount of *One Year's* arrear of Rent-charge shall be a charge on the lands, subject to the payment of such annual Rent-charge.

5.
If Leases under the Laws now in force be free of Tithes, the Estate held thereunder shall not be liable to Rent-charge.

On determination of any Estate chargeable with Rent-charge, the next Estate shall become chargeable.

6.

If any Person who would have been liable to Tithe Composition hold mediately or immediately under the Person liable to such Rent-charge, the amount of such Rent-charge may be recovered as Rent from the next Tenant, and so downwards to the Person primarily liable.

And be it Enacted, That whenever any person who would have been liable to the payment of any Composition for Tithes, if this Act had not been made, shall hold the lands in respect whereof such Composition for Tithes would have been so payable as lessee or sub-lessee under a person liable to the payment of such Rent-charge as aforesaid in respect of the same lands, then and in such case an annual sum equal to the amount of such Rent-charge shall be from time to time payable to the person so liable to the payment of such Rent-charge by the next immediate lessee holding under him, such sum to become first due on the *First* day of *November* in this present year, and to be then payable by one entire payment, and the like annual sum thereafter in every succeeding year, to be payable at such times and by such quarterly or half-yearly or yearly payments, as the rent due and payable by such lessee may be reserved and made payable, and together therewith; and subject to all the like incidents, in like manner, to all intents and purposes as if such sum had been mentioned in the same lease, instrument or demise, and expressly reserved and made payable thereby; and the person liable to such Rent-charge as aforesaid shall have such and the like remedies to enforce payment of such sum by distress, ejectment or re-entry, or by action of debt, covenant or otherwise, as he may have to enforce payment of the rent reserved by such lease, instrument or demise; and the said next immediate lessee, in case he himself would not have been liable to the payment of such Tithe Compositions as aforesaid, shall be in like manner, and by all such and the like remedies, entitled to receive and recover of and from his immediate sub-lessee such annual sum from time to time accruing due and payable, and so on, each lessee recovering from his sub-lessee downwards to the person who would have been primarily liable to the payment of such Tithe Compositions if this Act had not been made: Provided always, That in the case of the land being divided among several lessees or sub-lessees, each of them shall be liable to the payment of no greater portion of such annual sum than may from time to time become due and payable in respect of the land which such lessee or sub-lessee, or any other person with him jointly, may hold: Provided further, That where any person would have been liable, under the provisions of any law now in force in Ireland, to make payment of any Composition to any landlord or person entitled to the receipt of the same by virtue of any certificate of agreement as is mentioned in the hereinbefore-mentioned Act of the second and third year of His present Majesty's reign, such person liable to make payment of such Composition to the person entitled thereto by virtue of such certificate shall be deemed to be within the meaning of this Act the person primarily liable thereto; and where the lessee or occupier of any lands may be entitled to deduct out of the rent payable by him to his landlord the amount of any Composition, such landlord

landlord shall be deemed to be within the meaning of this Act the person primarily liable thereto.

And be it Enacted, That in any case where the effect of any Composition may be by any law now in force suspended in consequence of any
 5 lease of Tithes, or agreement in writing respecting the same, every such lease or agreement having such effect as aforesaid, but none other, shall from and after the *passing of this Act* wholly cease and determine, but without prejudice to the recovery of any sum heretofore accrued due by virtue thereof; and the lands which would, if this Act had not
 10 been made, have upon the termination of such lease or agreement become subject to the payment of any Composition for Tithes shall be and become severally charged with an annual sum or Rent-charge equal to *Seven-tenths* of the amount of such Composition, and an annual sum equal in amount to such Rent-charge shall become payable to the
 15 persons from time to time liable to the payment of such Rent-charge, and to their lessees and sub-lessees, in like manner as hereinbefore provided in cases where the effect of such Compositions shall not have been suspended as aforesaid: Provided nevertheless, That if any payment on account of this present year shall previous to the *passing*
 20 *of this Act* have accrued due by virtue of or under such lease or agreement, the amount thereof shall be deducted from the Rent-charge accruing due on the *First* day of *December* in this present year, and the residue only shall be then payable.

7.
Such Leases, &c. of Tithes as have now the effect of suspending Compositions shall determine, and none other.

AND whereas by an Act passed in the fourth year of the reign of
 25 his late Majesty King GEORGE the Fourth, intituled, "An Act to provide for the Establishment of Compositions for Tithes in Ireland for a limited time," it was enacted, that whenever under the provisions of that Act, any Composition should be made for Tithes payable in any parish, every person who should afterwards set, let or demise any land
 30 lying within such parish at a rack-rent should make such lease or demise free from the payment of Tithes during the continuance of such Composition; and that in such case it should be lawful for the lessee or occupier of such land, and every such lessee or occupier was thereby required to pay the amount of such Composition to the person entitled
 35 thereto; and that it should be lawful for such lessee or occupier of such land to deduct the amount of all such payments from time to time out of the amount of rent payable by such lessee or occupier of such land to his immediate landlord; and it was further enacted by the said recited Act, that in case such Composition should cease and
 40 determine at any time during the continuance of such lease, the rent reserved in such lease should be reduced in amount by a sum equal to the amount of such Composition: AND whereas in such cases of land set, let or demised at a rack-rent in any parish at any time after the establishment of a Composition for Tithes therein, the amount of such

8.
Where Leases at Rack-rent have been made, after the establishment of any Composition in pursuance of 4 Geo. 4. c. 99. the Rents shall be reduced in proportion to the difference between such Composition and the Rent-charge payable under this Act.

Composition has by reason of the said recited enactments been added to and made payable together with and as part of the rent ; and it is just and reasonable that such rent should be reduced to the extent of the reduction made under this Act in converting the said Composition into a Rent-charge ; BE it therefore Enacted, That in the case of any lease made at a rack-rent, at any time after the establishment of a Composition for Tithes in any parish, of lands subject to the payment of such Composition, the rent reserved upon and made payable in and by any such lease shall be reduced by a sum equal to the difference between the amount of the Composition heretofore payable in respect of such lands and the amount of the Rent-charge which will under the provisions of this Act become payable in lieu thereof, and that the party from time to time liable to the payment of such rent shall be entitled to deduct the amount of such difference accordingly : Provided always, That, subject to such reduction, such rent shall remain payable as if the said Tithe Compositions were not by this Act determined.

9.
Compositions
for Tithes may
be revised on
application to
the Lord
Lieutenant in
Council.

AND whereas it is just and expedient, with a view to a final and satisfactory settlement of the amount of the said Compositions for Tithes and the Rent-charges payable in lieu thereof, that the calculations on which such Compositions have been established should be subjected to revision where a proper *prima facie* case for revision may be made out ; BE it therefore Enacted, That it shall and may be lawful for any person or persons in any parish, who would have been, in case this Act had not been made, individually or collectively liable to the payment of more than One-half of the amount of the whole Composition established in and for such parish, whether the several sums payable by him or them respectively shall be or may have been payable to any party entitled to the receipt of any Composition, or to any landlord who may have taken upon him the payment of such Composition, to apply to the Lord Lieutenant of Ireland in Council, praying, on behalf of such parish, a revision of the Composition established therein ; and in like manner it shall be lawful for any person who would have been, in case this Act had not been made, entitled to any Composition for Tithes, to apply within the said period of *Six Weeks* to the said Lord Lieutenant in Council, praying the revision of such Composition, and every such application shall be made by memorial, lodged within *Six Weeks* next after the *passing of this Act* with the Clerk of the Privy Council of Ireland, and notice of every such application shall be posted on the church door, and on the usual places of posting notices of applications for Grand Jury presentments, in the barony or half barony in which the parish to which such application may refer is situate, and once inserted, by or on behalf of the applicant party, in some newspaper circulating within such parish within *Ten Days* next after such memorial shall be so lodged with the Clerk of the Council : Provided, That where the effect of any Composition may have been suspended previous

to

to the *passing of this Act* by virtue of any lease or agreement in writing, the Owners and Occupiers of any lands upon which collectively a sum exceeding *One-half* of the amount of such Composition may have been applotted, shall be deemed and taken to be qualified within the meaning
5 of this Act to make such application.

And be it Enacted, That every such memorial shall state the particulars, grounds and reasons for making such application, and the material allegations of every such memorial shall be verified by some *One* or more credible person or persons, according to the best of
10 their knowledge and belief, on oath, before *One* or more of the Justices of the peace for the county or one of the counties wherein such parish may be situate (which oath any such Justice or Justices is and are hereby authorized to administer); and if by any such memorial so verified it shall appear to the said Lord Lieutenant in Council that the
15 amount of the Composition to which such memorial may relate exceeds by more than *One-fifth* the actual amount of the average of the sums really and truly paid, or really and truly agreed to be paid, or really and truly due and adjudged to be paid, during the *Seven* Years on the average of which such Composition was calculated, or
20 that any sum was added to the actual amount of the average of such true and real sums without just and sufficient grounds and reasons for such addition, or that any fraud, concealment, misrepresentation or circumvention was practised upon the entering into such Composition, whereby the amount of such Composition was unduly affected, or that
25 such Composition was made upon ex parte evidence, whereby the amount of such Composition was unduly affected, then and in every such case the said Lord Lieutenant shall cause the same to be revised in manner hereinafter mentioned: Provided always, That when an appeal from any Certificate of Composition has before the *passing of*
30 *this Act* been decided upon the merits by the Lord Lieutenant and Privy Council, or by any Judge of Assize, it shall be at the discretion of the said Lord Lieutenant and Council to cause such Composition to be revised or not, as he and they shall deem proper.

And be it Enacted, That the said Lord Lieutenant shall by warrant
35 under his hand appoint, for the duty of revising all such Compositions as shall be so found to need revision, so many Barristers as he or they may think necessary, of not less than *Six* Years' standing at the Irish bar, and shall refer each such Composition for revision to any *Three* or more of such Barristers, and shall appoint the time and place
40 or times and places at which they shall proceed with such revision; and such Lord Lieutenant shall, at his discretion, direct any such Compositions to be revised consecutively by such *Three* or more Barristers, or that any such Compositions shall be revised simultaneously by any other such Barristers, so that, however, not less than *Three* such

10.
Grounds on which applications for revision may be founded, shall be submitted for their consideration, and if found sufficient, such revision shall be allowed.

11.
Barristers to be appointed for the purpose of such revision.

Barristers shall be authorized to proceed with the revision of any such Composition.

12.
Rules to be
observed in
the revision of
Compositions
under this
Act.

And be it Enacted, That the Barristers so authorized to proceed with the revision of such Compositions shall give public notice of the several times and places at which, pursuant to such order and direction, they will hold Courts for such purpose, as well by advertisement to be inserted at least *Ten Days* previous to each such time in some newspaper circulating within the respective parish or parishes in which each such Composition may have been established, as by notices to be posted on the usual places for posting notices of applications for Grand Jury presentments at special sessions for the barony or half barony in which each such parish or any part of such parish may be situate; and at the time and places so notified, such Barristers shall in open court proceed to revise each such Composition, and shall in the first place inquire into and ascertain the manner in which each such Composition may have been calculated, and require the party who may have applied for such revision to sustain his or their objections thereto, and to produce evidence in support thereof; and such Barristers, having heard all such objections and evidence relating to such objections as shall be offered or made by or in behalf of any party entitled, or who may have been entitled to such Composition, or by or in behalf of any Owner or Occupier of land subject to such Composition, shall correct any error or injustice which shall appear to them to have occurred in the calculation of such Composition, or in respect of any of the matters set forth in the memorial before-mentioned, and shall make such order for confirming, increasing or decreasing the amount of each such Composition as they shall think just and equitable: Provided always, That if it shall appear to such Barristers that the annual amount of the sums paid or recovered on account of Tithes in any such parish shall not have varied above *One-fifth* part of the average annual amount of the whole during the series of *Seven Years* with reference whereto such Composition may have been calculated, then and in such case the amount of such Composition shall be fixed according to the average annual amount of the sums so paid and recovered during such *Seven Years*, unless it shall be shown that such payments were made with an admission that the Tithes were of greater value or that more was due: Provided always, That where any sum shall have been included in computing the amount of any such Composition on the evidence of any promissory note or other instrument or agreement, or of any adjudication made by any Ecclesiastical or other Court or Justices, in default of the appearance of the party against whom such adjudication may have been made, the said Barrister shall receive evidence, if offered, that the real value of the Tithes in respect whereof such promissory note, instrument, or agreement or adjudication may have been made, was less than the amount thereof, and in all cases where such lesser value shall be

be proved, shall, after hearing evidence in support of such Composition, correct accordingly the amount of such Composition: Provided also, That when any sums shall have been added to the average amount of the Tithe paid, or agreed or adjudged to be paid during any such series
 5 of years as aforesaid, the said Barristers shall examine into the sufficiency of the grounds and reasons upon which such addition has been made as set forth in the statement subjoined to the certificate of such Composition, and shall allow or disallow the same, and deduct or
 10 reduce or increase the sum so added, as to them shall seem just: Provided also, That where the Tithes of any land, not having been actually paid or adjudged to be paid during the series of years with reference whereto any Composition may have been calculated, such
 15 Tithes have been estimated or calculated according to the payments made for Tithes of the like kind in the same or any adjoining parish, or according to such information as may have been obtained, the said
 20 Barristers shall inquire into the facts and the accuracy of such information, and the fairness of any such estimate, and amend or confirm the calculation of such Composition accordingly: And provided further, That where the amount of any Composition shall have been fixed
 25 by agreement, such amount not having been ascertained by any Commissioner or Commissioners, or Umpire, under the provisions of the said recited Acts, and that it shall appear that either of the parties thereto entered into such agreement in ignorance of any facts, the
 30 knowledge whereof was material to making an equitable arrangement between them, or under any concealment or misrepresentation of such facts, and that such agreement was unjust, the said Barristers shall inquire into and ascertain and fix the just amount of Composition which ought to be established in lieu of the sum so fixed by agreement: provided further, That where in the calculation of any such Com-
 35 position it shall appear to the said Barristers that any sum has been included on account of the Tithes of any land which they shall deem to have been Tithe-free, the said Barristers shall exclude such sums in calculating the amount of such Composition.

And be it Enacted, That the said Barristers shall adjudge the ex-
 35 penses of the revision of each Composition to be paid either by the party or parties entitled to the receipt of the Rent-charges by this Act created, or by the Owners or Occupiers of the lands, subject to the said Rent-charges or by both, in such proportions as to such Barristers shall seem just: Provided always, That if upon such revision such Composi-
 40 tion shall not be reduced *One-seventh* part of the whole, and if such revision shall have taken place upon the application of the said Owners or Occupiers, the whole of such expenses shall be paid by them; and that if such Composition shall not be increased *One-seventh* part of the whole, and if the revision thereof shall have taken place upon the application of any party entitled to the said Rent-charges, the whole of such expenses shall be paid by such party: And provided

13.
 Barristers
 revising
 Compositions
 shall make
 order for
 payment of
 the Expenses
 by such party
 as they shall
 think fit, sub-
 ject to certain
 Rules.

further, That it shall be lawful for the said Barristers to direct the payment of such costs as shall seem to them fitting by either of the parties to such revision to the other of such parties in cases where, in the discretion of such Barristers, such payment may be proper and just; and payment thereof may be enforced by action of debt or on the case, or by civil bill in the Court of the Assistant Barrister; and the production of an order attested under the hands of any *Two* such Barristers shall be sufficient evidence of the liability of the defendant to pay the sum therein expressed to the plaintiff suing for the same.

14.

Barristers shall transmit their Award to the Lord Lieutenant, who shall amend Rentals of Rent-charge and Applotments accordingly.

And be it Enacted, That such Barristers, having made such order and adjudication as aforesaid, shall transmit the same, attested under their hands or the hands of any *Two* of them, to the said Lord Lieutenant, who shall cause the certificate and applotment of such Composition, and the entry of such certificate in the registry of the diocese, to be amended, if necessary, according to such order; and such amendment shall take effect from and after the *First* day of *November* now last past, but shall be without prejudice to any arrears of Composition then or theretofore due.

15.

Treasury may order advances from the Consolidated Fund to defray the Expenses incurred in revision of Composition.

And be it Enacted, That it shall and may be lawful for the Commissioners of His Majesty's Treasury of the United Kingdom of Great Britain and Ireland to order and direct that any such sum or sums of money as may be necessary, shall from time to time be advanced out of the produce of the Consolidated Fund arising in Ireland, for defraying the expenses to be incurred in the revision of such Compositions as aforesaid, or for the amendment of applotments under the provisions of this Act as hereinafter mentioned, not exceeding the sum of *Two* hundred Pounds with respect to any one parish; and that all such advances shall be made to such persons at such times, in such manner and under such rules and regulations as shall from time to time be ordered and directed by the said Commissioners, or any *Three* or more of them.

16.

Barristers may compel attendance of Witnesses.

And be it Enacted, That the said Barristers holding any such court shall have power to adjourn the same, and the revision of each such Composition, from time to time and from place to place as they may think proper, subject to the orders and directions of the said Lord Lieutenant; and, for the purpose of revising such Compositions as aforesaid, such Barristers shall have and they are hereby invested with all and every the powers and authorities which it is, by the said Acts in force in Ireland for establishing Compositions for Tithes, provided that any Commissioner or Commissioners acting thereunder may use and exercise, for ascertaining and fixing the amount of any Composition to be established under the provisions of the said Acts; and the said Barristers shall have power and authority to call before them, by a summons in writing under the hands of any *Two* of them, and to examine the respective Commissioner or Commissioners, or Umpire, by whom each Composition

Composition may have been established, or any other person, whether interested or not interested in the matter of such revision, whom they judge fit and necessary to examine touching the matter of such revision; and they shall also have authority to require such Commissioners or

5 Umpire, or any other person having in his or their possession or power any books, papers, writings, accounts, or other documents material to the calculation of such Composition, or to the revision thereof, to produce the same; and the said Barristers shall have power and authority to administer an oath or affirmation to any person who may

10 be so summoned, or to any witness who may be tendered, and all such persons so summoned before such Commissioners are hereby required to give evidence and information accordingly; and if any person so summoned, whether personally or by notice left at his usual residence, shall not attend pursuant to such summons, or shall

15 decline or refuse to give evidence, or shall refuse to produce any books, papers, writings, accounts, or other documents of which the said Barristers may lawfully require the production, it shall be lawful for such Barristers either to make application to any of His Majesty's superior courts at Dublin for an attachment against such person,

20 which attachment shall issue out of such court accordingly, on due proof by affidavit of the service of such summons and the default of the person so summoned, and be proceeded with in like manner as any other attachment issuing out of such superior court; or it shall be lawful for such Barristers, upon complaint upon oath made to them, to

25 convict such person so offending as aforesaid summarily in such penalty, not exceeding *Fifty* Pounds, as they shall think fit, and in default of payment to commit such person to the gaol of the county or place in which such Barrister shall be sitting, for any period not exceeding *Three* calendar Months.

30 And be it Enacted, That where any person who may have acted as a Commissioner or Umpire in the establishment of any such Composition, or any other person not being a party interested in the matter of such revision, either as the Owner or Occupier of land subject to such Composition, or as a party who would have been entitled to the receipt thereof if this Act had not been made, shall appear before the said

35 Barristers, and be by them required to give evidence, it shall be lawful for such Barristers, at their discretion, to order such reasonable allowance to be paid to such person, for his actual expenses and loss of time, as they may think proper; and such order shall be made under the hands of such Barristers, and directed to such person as the said

40 Commissioners of the Treasury shall appoint to make payments conformably to such orders; and such money shall be paid accordingly, and included in the expenses of the revision of such Compositions, and repaid in like manner and as part thereof.

17.
Barristers may
allow Ex-
penses to
Witnesses not
interested in
the matter.

18.

*Witnesses and
Barristers how
to be paid, and
Expenses of
Revision how
to be repaid.*

And be it Enacted, That every Barrister appointed for the duty of revising such Compositions as aforesaid shall be paid at the rate of Five Guineas for every day that he shall be so employed; and all such Barristers who shall be so employed together shall, after the termination of their sitting at each place, lay or cause to be laid before the said Commissioners of the Treasury, a statement of the number of days during which they and each of them shall have been so employed, specifying in such account where more than one Composition may have been revised at one place, the time employed, and the expenses incurred in and about the revision of each such Composition respectively; and such Commissioners, or any Three or more of them, shall make an order for the amount ascertained to be due to each such Barrister as aforesaid, to be paid to him out of the said Consolidated Fund; and the said Commissioners shall cause an account to be kept of the amount of the money so advanced on account of the expenses of the revision of such Compositions respectively; and where any expenses shall have been incurred on account of the revision of several Compositions conjointly, the amount of such joint expenses shall be apportioned amongst them in such manner and proportions as the said Commissioners, or any Three or more of them, shall direct; and in case it shall have been adjudged that the Owners or Occupiers of land liable to Rent-charge within the parish in which any such Composition may have been established should pay such expenses, or any proportion thereof, a certificate of the amount of the money so payable by such Owners or Occupiers shall be transmitted, under the hand of one of the Joint or Assistant Secretaries of the said Commissioners of the Treasury, to the Treasurer of the county in which such parish may be situate, and such Treasurer shall insert the sum specified in such certificate in his warrant for the collection of the money to be raised and levied off such parish, by presentment of the Grand Jury at the assizes next succeeding; and such sum shall be apportioned, raised and levied off such parish in like manner and by the like ways and means as if such sum had been presented by such Grand Jury, and shall be paid over by the said Treasurer, when and as by him received, to such bank or person and in such manner as the said Commissioners of the Treasury shall direct; and in case such expenses or any proportion thereof shall have been adjudged to be paid by any party entitled to the receipt of the said Rent-charges, the said Commissioners shall cause the sum so payable by such party to be notified to him, and he shall pay the same to such bank or person as the said Commissioners of the Treasury shall appoint, and in default thereof the said sum shall be recovered as a debt due to The King, whereof a like certificate, under the hand of any such Joint or Assistant Secretary, shall be sufficient evidence, and the money so paid or recovered shall be applied to replace the sums so advanced out of the said Consolidated Fund.

19.

*Appeals now
before Privy
Council may
be referred to*

And be it Enacted, That it shall and may be lawful for the said Lord Lieutenant to cause such Compositions concerning which any appeal

appeal is now pending before the Lord Lieutenant and Privy Council, or before any Judge of Assize, and remaining undecided, to be revised by Barristers to be appointed as herein directed, in the same manner and subject to the same provisoes and enactments, in respect of costs and all other matters, as are provided and enacted with respect to Compositions to be revised under the provisions hereinbefore contained: Provided always, That the parties concerned in such appeals shall not be liable to any other or greater costs than they would have been if this Act had not been made.

Barristers
under this
Act.

- 10 And be it Enacted, That it shall be lawful for any such persons as are hereinbefore authorized to apply for the revision of any Composition, to apply to the said Lord Lieutenant in Council, praying the amendment of the applotment of any Composition; and such application shall be made by memorial, to be lodged with the said Clerk of the Council
- 15 and notified by public advertisement, and otherwise in like manner as applications for the revision of Compositions; and if by any such memorial it shall be made to appear to the satisfaction of the said Lord Lieutenant in Council, that any such applotment of such Composition is defective or unjust, or does not with sufficient precision ascertain the
- 20 lands and holdings in respect whereof the said Rent-charges will be payable, it shall and may be lawful for the said Lord Lieutenant and Council to direct such applotment to be amended, and for that purpose to appoint some one or more skilful person or persons, who shall therein have and exercise the like powers, privileges and authorities, and
- 25 observe the several regulations in the said Acts for establishing Compositions of Tithes expressed and contained, but subject nevertheless to such instructions and directions as the said Lord Lieutenant and Council shall prescribe for the avoiding any defect or uncertainty to which the original applotment may have been liable; and such amended
- 30 applotment shall be returned to the Clerk of the said Council, attested under the hand of the person or persons making the same, and the original book of applotment shall be amended under the direction of the said Lord Lieutenant accordingly; and such amended book of applotment shall be in the place and stead of the said original book of
- 35 applotment, and be valid and effectual to all intents and purposes for which the said original book of applotment would have been valid and effectual, but in the meantime such original book shall be in full force and effect; and the said Lord Lieutenant shall cause to be paid to the person or persons employed for the purposes aforesaid such remuneration as he shall think reasonable, and the expenses thereof shall be
- 40 repaid by Grand Jury presentment, in like manner as hereinbefore provided in respect of the costs of the revision of any Composition.

20.
Lord Lieu-
tenant may
cause Applot-
ments to be
amended.

AND forasmuch as the Rent-charges made payable by this Act are charged upon the lands heretofore subject to the payment of Compositions

21.
Proceedings
where the
liability of
Lands to

Rent-charge shall be disputed.

sitions for Tithes, it is expedient to make provisions for the more cheap and convenient determination of the liability to such Compositions; BE it therefore Enacted, That where any person having any interest in any lands whereon any such Composition shall have been applotted shall dispute the liability of such lands thereto, by reason of such land having been Tithe-free, it shall be lawful for the Court of Chancery or Exchequer in Ireland, upon the petition of any such person, in a summary way to make such order, allowing or disallowing such claim of exemption, or to direct such feigned issue or reference to any Master of the Court, or the Chief or Second Remembrancer, or other proceeding as such Court shall think proper, for the purpose of ascertaining whether such lands would have been rightfully charged with Tithe Composition if this Act had not been made, or if such Composition had not been suspended; and if it shall appear to the Court that such land would not have been rightfully charged with such Composition, it shall be lawful for the said Court so to declare and to make such order for the amendment of the certificate and applotment of such Composition, and of the entry of such certificate in the registry of the diocese, as to such Court may seem fit; and such lands shall be exonerated from Rent-charge accordingly.

22.
When Tithe-free Lands have been subjected to Composition, such Composition shall be reduced.

And be it Enacted, That where any lands made subject to the payment of any part of a Composition (the amount of such Composition not having been fixed by agreement) shall by virtue of any decision in law or equity have been, or at any time shall be declared to be, exempt from the payment of Tithes, it shall be lawful for the Court of Chancery or Exchequer in Ireland, upon the petition of any person liable to the payment of Rent-charge, in the parish in which such lands may be situate, to direct any Master of such Court, or the Chief or Second Remembrancer, to inquire into and ascertain, by examination of the Commissioner or Commissioners, or Umpire, as the case may be, by whom such Composition may have been established, or otherwise upon the best evidence which can be procured, the sum included in the amount of such Composition on account of the Tithes of such land, and the certificate and applotment of such Composition, and the entry of such certificate in the registry of the diocese, shall be amended accordingly under the direction of such Court, and the Rent-charges payable instead of such Composition for Tithes shall be reduced proportionably.

23.
What Prescriptions to be valid in law in case of Claims of Exemption from Tithes.

And be it Enacted, That all claims of exemption from or discharge of Tithes, or Compositions for Tithes, shall in all cases whatever be sustained, and be deemed good and valid in law upon evidence showing the enjoyment of the land without payment or render of Tithes, money or other matters in lieu thereof, for the full period of *Thirty Years* next before the *passing of this Act*, unless the render or payment of Tithes, or of

of money or other matter in lieu thereof, shall be shown to have taken place at some time prior to such *Thirty Years*, or it shall be proved that such enjoyment was had by some consent or agreement expressly made or given for that purpose by deed or writing; and if such proof

5 in support of the claim of exemption shall be extended to the full period of *Sixty Years* next before the *passing of this Act*, such claim shall be deemed absolute and indefeasible, unless it shall be proved that such enjoyment was had by some consent or agreement expressly made or given for that purpose by deed or writing; and where the

10 render of Tithes or Compositions for Tithes might have been, in case this Act had not been made, demanded by any Archbishop, Bishop, Dean, Prebendary, Parson, Vicar, or other corporation sole, whether spiritual or temporal, or by the said Ecclesiastical Commissioners, then every such prescription or claim shall be valid and indefeasible,

15 upon evidence showing such enjoyment had, as is hereinbefore mentioned, for and during the whole time that two persons in succession shall have held the office or benefice in respect whereof such render of Tithes in kind might have been claimed, and for not less than *Three Years* after the appointment and institution or induction of a third

20 person thereto: Provided always, That if the whole time of the holding of such two persons shall be less than *Sixty Years*, then it shall be necessary to show such enjoyment had, not only during the whole of such time, but also during such further number of years either before or after such time, or partly before and partly after, as

25 shall with such time be sufficient to make up the full period of *Sixty Years*, and also for and during the further period of *Three Years* after the appointment and institution or induction of a third person to the same office or benefice, unless it shall be proved that such enjoyment was had by some consent or agreement expressly made or given

30 for that purpose by deed or writing.

Provided always, and be it Enacted, That the provisions hereinbefore contained, with respect to the establishment of claims of exemption from or discharge of Tithes, shall not extend to any case where the Tithes of any land shall have been demised by deed for any

35 term of life or number of years, or where any Composition for Tithes shall have been made by deed or writing by the person or body corporate entitled to such Tithes with the owner or occupier of the land for any such term or number of years, and such demise or Composition shall be subsisting at the time of the *passing of this Act*, nor to

40 any suit for establishing a claim to Tithes which was pending on the *First day of June* in the year *One thousand eight hundred and Thirty-six*.

24.
To what cases the hereinbefore contained provisions shall not extend.

Provided also, and be it Enacted, That where any lands or tenements shall have been held or occupied by any Rector, Vicar, or

283.

25.
Time during which Lands shall be held by Persons

entitled to the Tithes thereof, to be excluded in the Computation; as also the time during which any Person capable of resisting any Claim shall be an Infant, &c.

other person entitled to the Tithes thereof, or by any person compounding for Tithes with any such Rector, Vicar, or other person, whereby the right to the Tithes of such lands may have been or may be during any time in the occupier thereof, or in the person entitled to the rent thereof, the whole of every such time and times shall be excluded in the computation of the several periods of time hereinbefore mentioned: Provided also, That the time during which any person otherwise capable of resisting any claim to any such exemption or discharge as aforesaid shall have been an infant, idiot, non compos mentis, feme covert, or lay tenant for life, or during which any action or suit shall have been pending, and which shall have been diligently prosecuted until abated by the death of any party or parties thereto, shall be excluded in the computation of the periods hereinbefore mentioned, except only in cases where the right or claim is hereby declared to be absolute and indefeasible.

26.

What it shall be sufficient to allege in Proceedings relating to the Exemption of Lands from Tithe under this Act.

And be it Enacted, That in all proceedings to be taken after the *passing of this Act*, for the purpose of determining the exemption or discharge of any lands from Tithes, it shall be sufficient to allege that the exemption or discharge claimed was actually exercised and enjoyed for such of the periods mentioned in this Act as may be applicable to the case; and any provision, exception, incapacity, disability, contract, agreement, deed or writing herein mentioned, or any other matter of fact or law not inconsistent with the simple fact of the exercise and enjoyment of the matter claimed, shall be specially alleged and set forth, and shall not be received in evidence on any general traverse or denial of the matter claimed.

27.

No Presumption allowed in support of any Claim for any less period than herein mentioned.

And be it Enacted, That in the several cases mentioned in and provided for by this Act, no presumption shall be allowed or made in favour or support of any claim of exemption, upon proof of the exercise or enjoyment of the right claimed for any less period of time or number of years than for such period or number mentioned in this Act, as may be applicable to the case and to the nature of the claim.

28.

Rent-charges, to whom payable.

And be it Enacted, That the said Rent-charges shall be payable to and amongst the several persons who would have been, if this Act had not been made, entitled to Compositions for Tithes arising out of the several lands charged with such Rent-charges respectively, and in the same proportions, and vested in such persons for the like estates or interests, and subject to the like trusts, uses, charges, payments, rents, liens and incumbrances, of what kind or nature soever.

29.

Effect of Certificates of Compositions as to right of Parties entitled thereto.

AND whereas doubts have arisen with respect to the effect of certificates for the Composition of Tithes in Ireland, made under the authority of the said Acts for establishing such Compositions, as respects the rights or titles of persons having or claiming to have estates

estates or interests in the Tithes or Compositions to which such certificates respectively relate: AND whereas the said Rent-charges will be payable to or divided among the several persons entitled thereto according to the proportions of such Compositions payable to them
 5 respectively as in such certificates stated; BE it therefore Enacted, That no certificate made under the said Acts or any of them, or which may be amended under the provisions of this Act, shall, as against any person claiming any estate or interest in Tithes or Composition for
 10 Tithes in Ireland, and asserting such claim by any proceeding at law or in equity, be deemed to be evidence of the right or title of any person in such certificate described; and that if it shall be decided by any Court of competent jurisdiction that any person other than the person in such certificate described, or those deriving under such
 15 person, would have been entitled to such Composition, or to the Tithes to which the same shall relate, the person so declared entitled shall be thereupon authorized and entitled to receive the Rent-charge or proportion thereof accruing due under authority of this Act, in lieu of the Composition in such certificate mentioned, as if originally named therein; and until such decision, such certificate, and all payments
 20 made under the same, shall be good, valid and effectual against all persons whatsoever.

And be it Enacted, That the said Rent-charges shall have priority over all other charges, liens, mortgages and incumbrances whatsoever, affecting the lands chargeable therewith; and shall and may be
 25 recovered by the ways and means hereinafter mentioned; (that is to say) by bill in equity, action of debt or on the case, or if not exceeding *Twenty Pounds*, by civil bill in the Court of the Assistant Barrister or Chairman of the Sessions of the county wherein the lands charged therewith may be situate, or by distress, subject to the provisions here-
 30 inafter contained.

30.
Rent-charges,
how to be re-
covered.

And be it Enacted, That where the person liable to the payment of any Rent-charge shall occupy the land in respect whereof the same may be payable, it shall and may be lawful to make any distress or distresses for any arrears of such Rent-charge or proportion thereof;
 35 and such distress shall be subject in all respects to the like regulations and attended with the like privileges and advantages as are by law established in respect of any distress by any landlord for the recovery of rent.

31.
Where Person
liable to pay-
ment of Rent-
charge shall
occupy the
Land, Rent-
charge in
arrear may be
distrainted for.

Provided always, and be it Enacted, That in all cases where any
 40 lands charged with the said Rent-charge shall be held or occupied by any person other than the person liable under the provisions of this Act to the payment thereof, it shall not be lawful to make any distress upon such lands, or upon any other lands, goods or chattels of such

32.
Where Rent-
charge in
arrear, and the
Person liable
thereto shall
not be in
occupation of
the Lands
charged
therewith, or

where such Person may not be known, a Court of Equity may order the Rents of such Lands to be received in liquidation of such Rent-charge, &c.

person for such Rent-charge, but in all such cases, and also in all cases where the person liable to the payment of such Rent-charge may not be known to the party entitled to such Rent-charge, and such Rent-charge shall be in arrear and unpaid for the space of *Thirty-one* Days after the same shall have become due, it shall be lawful for the Court of Chancery or Exchequer in Ireland, upon application as herein-after mentioned, and in default of its being shown to such Court that the person in occupation of such land is liable to the payment of such Rent-charge, to appoint a receiver to receive the rents or such part of the rents of the lands charged with such Rent-charge as shall be sufficient to pay such Rent-charge and all arrears thereof, until the whole of such arrears shall be discharged, together with such fees as shall be appointed by such Court for such receiver, and also the costs out of pocket of such application, and that out of the sums so received, such fees and costs shall be ordered to be paid; and such order shall be made upon petition and affidavit, after reasonable time given to show cause; and notice of the intention to make such application shall, *Ten* Days previous to making the same, be served upon the person, or the known attorney, agent or steward of the person in receipt of or entitled to such rents, either by delivering such notice to the party personally, or by leaving the same at his usual place of residence; and that the said receiver shall be empowered by the said Court to recover the said rents, or so much thereof as may be necessary, by distress and all such other remedies as receivers in any manner appointed by Courts of Equity in Ireland are empowered to recover rents, according to the rules and practice of such Courts respectively.

33.
Rent-charges may be apportioned.

And be it Enacted, That if any party liable in respect of any such estate or interest as aforesaid to the payment of any such Rent-charge shall at any time be desirous that such Rent-charge shall be charged upon any particular part or parts only of the lands subject thereto, or upon any other lands settled or limited to or for the same uses, trusts, intents or purposes, and in the same order and course of limitation, and subject to the same charges, liens and incumbrances, and shall give notice in writing of such desire to the party entitled to such Rent-charge, and of the intention to make such application as hereinafter mentioned, it shall be lawful for the Court of Chancery or Exchequer in Ireland, upon petition, after reasonable time given to show cause, and after or without any reference to any Master or Officer of such Court as it may think fit, to order and direct that the whole of such Rent-charge shall in future be exclusively charged upon such part or parts of the said lands as shall be specified in such notice, or upon such other lands as shall be specified therein, and thereupon in the former case such part or parts of the lands originally liable to such Rent-charge shall be exclusively subject thereto, and the rest of such lands shall

shall be freed and discharged therefrom, and in the latter case the lands originally liable shall be discharged from the liability to such Rent-charge, and the lands substituted in lieu thereof shall become exclusively subject to such Rent-charge : Provided always, That the annual value of the part or parts of any such land which shall be so made exclusively subject to such annual payment, or the annual value of the other lands which shall be so substituted, shall not be less in amount than *Three* times the amount of such Rent-charge at the least, and shall be separately described and distinguished in some deed or
 10 instrument to be prepared under the direction of the said Court, and deposited in the same place and custody where the original applotment of the Composition in lieu whereof such Rent-charge may be payable shall have been deposited, to be preserved and kept therewith, and such deed or instrument shall be in like manner open to inspection, and copies of or extracts taken therefrom in like manner and
 15 have the like validity and effect as copies and extracts of or from such applotment.

AND whereas the Compositions for Tithes by this Act abolished are liable to be increased or diminished from time to time, with reference
 20 to the average price of corn as advertised in the Dublin Gazette during the preceding *Seven* Years ; and it is just that the said Rent-charges which will by virtue of this Act become payable in lieu of such Compositions, and the amount whereof is regulated thereby, should be subject to a similar variation ; BE it therefore Enacted, That it shall
 25 and may be lawful for any *Three* or more persons in any parish or place, each charged with the annual payment of *Three* Pounds or upwards in respect of any such Rent-charges, and for any party entitled to the receipt of such Rent-charges or any proportion thereof respectively, to make application for the increase or diminution of the Composition
 30 in lieu whereof such Rent-charges may be payable at such periods from time to time, and in such manner as, if he or they were liable to the payment or entitled to the receipt of such Composition, he or they might respectively make such application ; and the like notice of any such application shall be given, and all such and the like proceedings
 35 had thereupon, as by the provisions of the said several Acts for establishing Compositions for Tithes in Ireland authorized and directed in the case of application thereunder ; and such Composition shall be increased or diminished and the applotment thereof amended accordingly, and the Rent-charges payable in lieu thereof increased or
 40 diminished in like proportion : Provided, That when the price of any particular species of corn shall be stated in the certificate of such Composition, the Justices to whom such application may be made shall ascertain the average price of that species of corn from the said Gazette, and such comparison shall be made between the price thereof as stated in such certificate, and the price thereof as so ascertained

34.
 Rent-charges
 to be variable
 in like manner
 as Tithe
 Compositions.

from the said Gazette during each period of *Seven Years* : And provided further, That where the price of corn shall not be stated in any such certificate of Composition, the said Justices shall ascertain from the said Gazette the average price of corn for the period of years with reference whereto such Composition may have been calculated, and deal therewith as if the same had been originally stated in such certificate. 5

35.
Holders of
Leases of
Tithes, &c.
may surrender
the same, or
compel the
Lessors to
reduce the
Rents.

And be it Enacted, That if any lease or demise of Tithes or Composition in lieu of Tithes shall be in force and undetermined at the *passing of this Act*, it shall and may be lawful for the lessee in such lease, or his representatives, within *Two* calendar Months after the *passing of this Act*, to surrender such lease to his immediate lessor or his representative ; or it shall be lawful for such lessee or his representatives, instead of surrendering such lease, to serve on such lessor or his representatives, within such period of *Two* Months, a notice in writing requiring him or them to reduce the rent reserved by such lease in proportion to the reduction of the profits arising thereunder, by reason of the conversion of the Tithe thereby demised, or the Composition established in lieu thereof, into Rent-charge under the provisions of this Act ; and in case such lessor or his representatives shall omit or refuse during the period of *One* calendar Month from the service of such notice to agree to make the abatement specified in such notice, or such other abatement as shall be satisfactory to the person serving such notice, the matter of such notice shall be referred to *Three* arbitrators, one to be appointed by such lessee or his representative, another by such lessor or his representatives, and the third by the *Two* arbitrators appointed as aforesaid, within *Ten* Days after notice in writing to be given by such lessee or his representative for that purpose ; and in case such lessor or his representatives shall omit or refuse within *Ten* Days after the service of such notice as last aforesaid, to appoint an arbitrator on his or their behalf, it shall and may be lawful for such lessee or person serving such notice to apply to the Court of Chancery or Exchequer in Ireland by petition, stating the facts, whereupon such Court shall have power and authority to nominate and appoint an arbitrator to act on the part of such lessor so omitting or refusing to act as aforesaid, and the appointment of such arbitrator shall be equally valid to all intents and purposes as if made by such lessor ; and in case of the death or incapacity, neglect or refusal to act of any of the said arbitrators, another shall be appointed in his stead by the party by whom or in whose behalf he was so appointed, or by the said arbitrators appointed by the parties, as the case may be, within *Ten* Days next after notice thereof ; and the said arbitrators, or any *Two* of them, shall and they are hereby authorized and empowered to inquire and ascertain, by all such ways and means as they shall think proper, whether any and what abatement of the rent reserved in any such lease 40

lease should be made to the lessee therein named, for or on account of the deduction in the amount of Tithe recoverable under such lease, arising from the operation of this Act; and the said arbitrators, or any *Two* of them, shall specify in their award the amount of the abatement to be made in the rent reserved in said lease, and the amount so specified shall be no longer payable or recoverable under such lease, and such award shall be of like force and effect as a release of so much of said rent as is thereby directed to be abated; and the said arbitrators shall execute two copies of their said award, one to be delivered to the lessor in such lease or his representatives, and the other to be deposited in the public office for registering memorials of deeds, conveyances and wills in Ireland; and such arbitrators, or any *Two* of them, shall have power and are hereby authorized to award that such lease shall cease and determine and be surrendered, and the same shall, if they shall so determine, thenceforth cease and determine.

AND for the better distribution of Ecclesiastical Duties and Revenues, BE it Enacted, That the Ecclesiastical Commissioners for Ireland shall forthwith inquire into the circumstances of every Benefice in Ireland, which comprises within its limits a city or town or any part thereof, and also into the circumstances of every Benefice in Ireland, the net annual income of which, from whatever source derived, shall not exceed *Three hundred Pounds*, and with respect to every such Benefice, shall ascertain the nature and extent thereof, and of the spiritual duties to be performed by the Incumbent thereof, and the number of Assistant Curates, either employed or required for the due discharge of such duties, and the amount of net annual income arising within such Benefice, and from what sources derived, and whether there be an adequate Glebe-house within the Benefice, and whether there be adequate church or chapel accommodation within the same, and whether there be any place, other than a church or chapel, wherein Divine Service, according to the rites of the United Church of England and Ireland, is occasionally celebrated, and shall consider whether, by any alteration of the limits of such Benefice, greater facility might be afforded to the discharge of the spiritual duties, or a more adequate income be afforded to the Incumbent, and whether it is expedient that in such Benefice a Glebe-house should be built, or a Church or Chapel should be built or enlarged; and the said Ecclesiastical Commissioners shall and they are hereby required, with all convenient speed, to make a report to the Lord Lieutenant in Council, and insert in such report a list of every such Benefice as aforesaid comprising any city or town, or any part of a city or town, and another list of every such Benefice as aforesaid not comprising any city or town or part thereof, and in the extent and limits of which it does not appear to them to be expedient to propose any alteration; and such report shall also specify every such Benefice as aforesaid not comprising any city or town, or

36.
Inquiries as to certain Benefices in Ireland to be made by Ecclesiastical Commissioners, and Report to be made to the Lord Lieutenant.

any part of a city or town in which it shall appear to the said Commissioners that the spiritual duties might be better discharged, or a more adequate income secured to the Incumbent by annexing thereto the whole or part of any adjoining Benefice, and shall state what adjoining Benefice, or what part or parts thereof they recommend to be annexed to such Benefice respectively, and when they shall recommend any part or parts of a Benefice to be annexed to another Benefice, shall describe the limits of the Benefice so proposed to be enlarged, and the income which may appear to them to be proper to be assigned to the Incumbent of such enlarged Benefice in future, and shall distinguish and specify every Benefice to be mentioned in such report in which the income of the Incumbent, reference being had to the extent and circumstances of the Benefice, and to the nature and extent of the spiritual duties to be performed by the Incumbent, is so inadequate that there shall appear to the said Commissioners to be an urgent claim for the augmentation thereof, and shall also state every Benefice in which it shall appear to the said Commissioners to be expedient that a Glebe-house should be built, or a Church or Chapel should be built or enlarged, and the sum of money which would be required for such purpose, and shall make such further recommendations relating to the matters into which they are hereinbefore directed to inquire with respect to every or any of the Benefices mentioned in such report, as may appear to them requisite for ensuring for all time to come the due and effectual discharge of spiritual duties within the same.

37.
Like inquiries
and report as
to Benefices
above the
value of 500 *l.*
and with a
Protestant
Population not
exceeding 100.

And be it Enacted, That on the next vacancy after the *passing of this Act* of any Benefice in Ireland, of which the net annual income shall exceed *Five hundred Pounds*, or in which the number of the members of the Established Church shall not exceed *One hundred*, the said Ecclesiastical Commissioners shall inquire into all the circumstances of such Benefice respectively, and shall ascertain, consider and report to the Lord Lieutenant in Council respecting the same, in like manner as they are hereinbefore required to inquire, ascertain, consider and report with respect to Benefices comprising within them any city or town or part thereof, and other Benefices hereinbefore mentioned: Provided always, That in conducting such inquiry and making such report in pursuance of this present provision, the Bishop of the diocese in which such Benefice shall be locally situated shall be associated with the said Ecclesiastical Commissioners, and shall (but for those purposes only) be an Ecclesiastical Commissioner, and have to all intents and purposes the same powers and authorities as if he had been appointed an Ecclesiastical Commissioner by the hereinbefore recited Act of the third and fourth years of the reign of His present Majesty, intituled, "An Act to alter and amend the Laws relating to the Temporalities of the Church in Ireland:" Provided also, That the said Ecclesiastical Commissioners shall and they are

are hereby required to consider and state in every such last-mentioned report, whether any alteration of the limits or extent of such Benefice respectively be proper to be made, and if they shall recommend any alteration to be made, whether the Benefice should be
 5 divided into two or more Benefices, or the whole or any part thereof united to any and what adjoining Benefice or Benefices, and by what name any new Benefice should be called ; and if it appear to the said Ecclesiastical Commissioners proper that such Benefice respectively shall remain unaltered according to its existing limits and extent, they
 10 shall further recommend whether any and what reduction of the net annual income thereof may be proper to be made ; and if they shall recommend any division or alteration of the limits and extent of such Benefice respectively, they shall recommend the proportion of the net annual income of such Benefice proper severally for the Incumbents of each
 15 of the Benefices to be created by such division, or of each of the Benefices to be altered.

And be it Enacted, That it shall be lawful for the Lord Lieutenant in Council to refer back to the said Ecclesiastical Commissioners any report to be made by them in pursuance of this Act, for the further
 20 consideration of the said Commissioners, and to require from them a statement of their reasons for the recommendations therein contained, or any of them ; and it shall be lawful for the said Commissioners, if they shall think proper, to amend and alter any part or parts of any such report ; and in case and so soon as any original or amended
 25 report of the said Ecclesiastical Commissioners shall be approved of by the Lord Lieutenant in Council, the said Lord Lieutenant in Council shall make an order for confirming the same ; and the order of the said Lord Lieutenant in Council, upon all such matters and all other matters contained in the recommendation and report of the said
 30 Ecclesiastical Commissioners, shall be conclusive and binding in law, as well in respect of His Majesty as all other persons affected thereby ; and a copy or copies of such order, certified under the hand of the Clerk of the said Council, with such maps or charts annexed thereto as may be necessary, shall be transmitted to the
 35 Bishop of the Diocese, or Bishops of the Dioceses, within which the Benefice or Benefices to which order may relate shall be situate, and shall be entered in the registry of each such diocese, for which entry the sum of *Thirteen Shillings and Four-pence* and no more shall be paid to the Registrar, and shall also be enrolled in the Rolls Office
 40 of the Court of Chancery in Ireland, for which enrollment the sum of *Thirteen Shillings and Four-pence* and no more shall be paid, over and above the expenses usually paid to the engrossing clerk for the same ; and another copy of such order, with such maps and plans as aforesaid annexed thereto, shall be transmitted to the said Ecclesiastical Commissioners, to be by them kept and preserved in their office.

38.
 Lord Lieutenant in Council may refer back Reports to the Commissioners for re-consideration, and make Orders thereon when fully approved.

39.
The Incumbents of reduced Benefices shall pay over Excess to the Ecclesiastical Commissioners.

And be it Enacted, That when by any such order as aforesaid the income of any Benefice shall be reduced, the Incumbent thereof and his successors for ever shall pay over to the said Ecclesiastical Commissioners the annual sum whereby such income may be reduced, together with and in addition to the yearly tax payable by him or them to the said Commissioners under the provisions of the said recited Act of the third and fourth years of His present Majesty's reign, or this Act, and that such annual sum may be recovered by all such and the like ways and means as such tax, and that all and every the provisions in the said recited Act contained, regulating the proportion of such tax payable with reference to the period during which any Benefice may have been enjoyed by any person, or providing for the apportionment of such tax between Incumbents and their successors, in case of death, removal or promotion, shall apply and extend to the said annual sum payable by virtue of any order made under this Act for the reduction of the income of any Benefice as fully and effectually as if such provisions were herein repeated and re-enacted, and made specially applicable thereto.

40.
Lord Lieutenant empowered to make a supplemental Order for removing Doubts or settling Disputes.

And be it Enacted, That it shall be lawful for the said Lord Lieutenant in Council, on the recommendation of the said Ecclesiastical Commissioners, from time to time, as occasion may require, to make any supplemental order or orders for removing such doubts and settling such disputes as may arise in consequence of the changes effected by virtue of the provisions hereinbefore contained, for uniting or dis severing Benefices, and for altering the limits and extents thereof; and every such supplemental order shall have the same force and effect as if it had formed part of any original order made under the provisions of this Act.

41.
The Benefice not to be increased to the extent of more than Thirty square Miles, nor any Benefice, unless comprising a City or Town, increased beyond 300 L. per annum.

Provided always, and be it Enacted, That it shall not be lawful for the said Ecclesiastical Commissioners to recommend, nor for the Lord Lieutenant in Council to order, the union of any Benefices, or the annexation to any Benefice of any part or parts of any adjoining Benefice, if the whole of the Benefice so united or augmented shall exceed Thirty square Miles of statute measure; and it shall not be lawful for the said Ecclesiastical Commissioners to recommend, nor for the said Lord Lieutenant in Council to order, any augmentation of the income of any Benefice not comprising within it a city or town, or part thereof, the net annual value whereof shall, including the value of the glebe, exceed *Three hundred Pounds*, nor to reduce the income of any Benefice not subject to reduction under the provisions of this Act or of the said Act passed in the third and fourth year of the reign of His present Majesty.

42.
Benefices of which the Advowsons belong to

Provided always, and be it Enacted, That it shall not be lawful for the said Ecclesiastical Commissioners to recommend, nor for the Lord Lieutenant

Lieutenant in Council to order, the reduction of the net annual income of any Benefice, nor the union thereof to any other Benefice, nor any alteration of the limits and extent of any Benefice, the right of appointment to which shall belong to the College of the Holy and Undivided Trinity, or to any person other than The King or some Ecclesiastical Corporation, sole or aggregate, without the consent of the patron or patrons thereof signified in writing under their or his seal: Provided always, That nothing herein contained shall prevent the division of any such Benefice into *Two* or more Benefices, without the consent of the said patron or patrons, in cases where the whole amount of income assigned to the several Incumbents of the Benefices so formed by division of such Benefice is not less in amount than the net annual value of the Benefice previous to such division.

Trinity College or private Patrons not to be altered (otherwise than by division) without consent.

And be it Enacted, That whenever any patron of any Benefice shall happen to be a minor, idiot, lunatic or feme covert, it shall be lawful for the guardian, committee or husband of such patron to consent to such reduction, union or alteration as aforesaid for such patron, and to certify his, her or their consent under his, her or their hand and seal or hands and seals for such patron, who shall be bound thereby in such manner, and the same shall be as valid and effectual as if such patron had been of full age or sound mind, or feme sole, and signified such consent aforesaid.

43.
Guardians, Committees, &c. of Patrons may consent.

And be it Enacted, That when any report of the said Ecclesiastical Commissioners, recommending the division or augmentation of any Benefice, shall have been confirmed by the Lord Lieutenant in Council in pursuance of this Act, the said Commissioners, with the consent of the said Lord Lieutenant in Council, shall divide, separate and annex and unite the lands which shall form part thereof, and the glebe belonging thereto, and the rents and sums payable by the Incumbents thereof, and shall ascertain, set out and describe the lands thereof in like manner as by the said Act of the third and fourth years of the reign of His said present Majesty is directed with respect to the parishes thereby directed to be divided and augmented, with the consents therein mentioned; and the enactments and provisions contained in the said Act relating thereto shall extend and be applied to the divisions and augmentations hereby authorized to be made, as if the same were here repeated and adapted to the purposes of this Act.

44.
Alterations of Benefices to be made as directed by the 3 & 4 W. 4. c. 37. with respect to the alteration of Parishes thereby authorized.

Provided always, and be it Enacted, That if it shall seem convenient to the said Ecclesiastical Commissioners that such alterations as they may deem proper with respect to any Benefice on which they may report as aforesaid to the Lord Lieutenant should not take effect until the avoidance of some other Benefice, they shall make a recommendation to that effect to the said Lord Lieutenant in Council, and Order shall be made accordingly, and an Incumbent appointed to

45.
Alterations with respect to any Benefice may be delayed until avoidance of any neighbouring Benefices.

either Benefice, who shall hold the same, subject to such arrangements in respect of income, extent and limits, duties, and all other matters as shall be expressed in such Order or such supplemental Order as shall be made in respect thereof.

46.
Order of
Lord Lieuten-
ant shall
take effect at
the periods
expressed
therein.

Proviso as to
payment to
continuing
Incumbent.

And be it Enacted, That every Order made by the said Lord Lieu- 5
tenant in Council under the provisions of this Act shall take effect in
its several parts from such period or periods respectively as may be
expressed in such Order, and the Incumbent of any Benefice to which
any vacant Benefice or part thereof shall be by such Order united
shall, by force of such Order and according to the terms thereof, 10
without further appointment, be and become ipso facto from the
period named in such Order in that behalf the Incumbent of such
newly-erected Benefice, and seised and possessed thereof as of one
complete and entire Benefice by the name or designation which may
be assigned to the same by such Order, and shall enter upon and be 15
charged with the cure of souls : Provided nevertheless, That where
upon occasion of the avoidance of any Church as aforesaid any parish
or parishes shall be by any such Order as aforesaid united in whole or
in part to any other parish or union, such Order shall not take effect
in so far as respects the income assigned to the Incumbent of any 20
new Benefice so formed until the next avoidance thereof, unless with
the consent in writing of the person so becoming, by virtue of such
Order, Incumbent of such new Benefice.

47.
When the
Fund is suffi-
cient, Sums
may be
applied in
augmentation
of Livings.

And be it Enacted, That the Ecclesiastical Commissioners shall 25
from time to time, as the state of the separate fund hereinafter placed
at their disposal shall admit, report to the Lord Lieutenant in Council
the particular Benefice or Benefices specified in any of the reports
hereinbefore required to be made to the Lord Lieutenant in Council
to which they recommend that an augmentation should be made, and
shall specify the total amount of augmentation which they consider 30
desirable, and the proportion thereof which they recommend to be at the
time assigned to any or every such Benefice, and it shall be lawful for
the said Lord Lieutenant in Council thereupon to issue an Order for
such augmentation, and for the assignment to the Benefice of the
proportion thereof recommended by the said Commissioners : Pro- 35
vided always, That if the whole of the augmentation be not at the
time assigned to such Benefice, it shall be lawful for the Lord Lieuten-
ant in Council to make from time to time such further Orders on the
recommendations of the said Ecclesiastical Commissioners as may be
requisite for assigning to the said Benefice the remaining portions of 40
the proposed augmentation ; and from and after the date of each such
Order, the augmentation therein ordered to be made to the annual
income of the Benefice shall be deemed part of the annual income
thereof, and shall be thenceforth paid to the Incumbent thereof.

And

And be it Enacted, That in every case in which a report of the said Ecclesiastical Commissioners, recommending a Glebe-house to be built, or a Church or Chapel to be built or enlarged in any Benefice, shall have been confirmed by an Order of the Lord Lieutenant in Council in pursuance of this Act, and it shall appear to the said Commissioners to be expedient that the sum of money necessary for that purpose should be applied out of the said separate fund, in preference to the augmentation of the income of any Benefice, they shall, by a report to the said Lord Lieutenant in Council, recommend that such sum shall be applied accordingly; and it shall be lawful for the said Lord Lieutenant in Council thereupon to issue an Order for such payment, and the Ecclesiastical Commissioners shall thereupon apply so much of the separate fund as may be specified in such Order to the building of such Glebe-house, or to the building or enlarging such Church or Chapel, as the case may be.

48.
Money may be applied out of Fund in building Glebe-house or Church or Chapel.

And be it Enacted, That it shall be lawful for the said Ecclesiastical Commissioners, with the consent of the Lord Lieutenant in Council, and without any other consent, to divide any Benefice the extent whereof exceeds *Forty* square Miles, or in which (not being a Benefice comprising a city or town or any part thereof) the number of the members of the Established Church shall exceed *One thousand*, into *Two* or more Benefices; in like manner as by the said Act of the third and fourth years of the reign of His said present Majesty they are authorized, with the consent of the said Lord Lieutenant in Council and of the Archbishop or Bishop of the diocese, and of the patron or patrons, to divide any parish and annex part thereof to any adjoining parish or parishes; and the enactments and provisions contained in the said Act relating thereto shall extend and be applied to the divisions hereby authorized to be made, as if the same were repeated and adapted to the purposes of this Act.

49.
Ecclesiastical Commissioners, with consent of Lord Lieutenant in Council, may divide Benefices exceeding *Forty* square Miles, or where, not being in a town, there are 1,000 Protestants.

And be it Enacted, That when any Benefice or Benefices, or part or parts thereof, shall be united under the provisions of this Act to any other Benefice, or any new Benefice or Benefices shall be erected by the division of a Benefice, the Incumbent of such augmented or newly-erected Benefice, and the parishioners and inhabitants thereof, shall proceed to the election of Churchwardens and other Parochial Officers, in such time and manner as the said Lord Lieutenant in Council shall direct: Provided always, That no union nor alteration of the boundaries of any Benefice shall in any way affect the secular rates, taxes, charges, duties or privileges of any parishes, or any part of them, otherwise than may be expressed in the Order effecting the union or alteration of such Benefice.

50.
Election of Parochial Officers upon the union or division of Benefices.

Unions and alterations of Boundaries not to affect secular Rates, &c.

And be it Enacted, That every new Benefice formed under the provisions of this Act, when such Benefice shall become complete, and

51.
Incumbents of Benefices formed under this Act to

be Rectors,
Vicars, &c.

until it shall become complete, then so far as the recommendation of the said Ecclesiastical Commissioners and the Order made thereupon shall have taken effect, shall be deemed a rectory or vicarage, or perpetual curacy, as may be expressed in such Order, and the spiritual person collated thereto and serving the same shall be the Rector or Vicar or Curate thereof, and shall have such tenure and estate in his Benefice, and shall be subject to such jurisdiction of the diocesan or other jurisdiction, and to such laws as to holding Benefices as are applicable to Rectors or Vicars or Curates in Ireland, and shall have such rights and privileges, and be subject to the obligation of such duties within his Benefice as Rectors or Vicars or Curates shall from time to time have or be subject to within their respective parishes. 5 10

52.
Lord Lieutenant in Council shall determine to what diocese new Benefices, &c. shall belong.

Churches, &c. annexed to Benefices deemed to be within the same wherever situate.

And be it Enacted, That if any newly-erected Benefice shall comprise parishes or parts of parishes locally situate in different dioceses, it shall be lawful for the said Lord Lieutenant in Council, by such Order as aforesaid, to determine and direct to which of such dioceses such newly-erected Benefice shall belong; and in case by any such Order as aforesaid, any Church or Glebe-house or Offices shall be appropriated to any Benefice, the same shall for all purposes expressed in such Order be deemed to be within such Benefice, although such Church or Glebe-house and Offices may be locally situate within any other parish or Benefice. 15 20

53.
Impropriators liable to provide Curates, shall after union contribute rateably.

AND whereas in some impropriate parishes the impropriators or possessors of the Tithes of such parishes are obliged by law to find a Curate to serve the cure of the said parishes; BE it therefore Enacted, That in case such parishes so appropriate or impropriate shall be divided or united, in whole or part, by virtue of the hereinbefore contained provisions, to any other parish or parishes, such impropriator or possessor shall be liable to make such provision or pay such contribution towards or for the maintenance and support of the Curate or Minister of such divided or united parishes as shall be settled and adjusted by the said Lord Lieutenant in Council, and specified in such Order or Orders as hereinbefore mentioned, for settling and adjusting all matters and things proper or necessary to be settled and adjusted in consequence of the changes directed to be made by such Order or Orders, provided that no greater charge in the whole shall be imposed upon any such impropriator or possessor than he may have been by law previously liable to. 25 30 35

54.
Commissioners to pay off charges of Benefices.

And be it Enacted, That in case of the reduction of the net annual income of any Benefice, or of the division of any Benefice under the provisions of this Act, and in case the said Lord Lieutenant in Council, on the recommendation of the Ecclesiastical Commissioners, shall by any such Order as aforesaid so direct, the said Ecclesiastical Commissioners shall pay to and satisfy the Incumbent, or his executors or administrators, 40

administrators, as the case may be, by whose promotion, removal, resignation or death such vacancy of the Benefice in respect whereof such direction shall be given shall have been occasioned, such proportion of all and every such sums of money as by force of any law or statute would have been payable to or recoverable by such Incumbent, or his executors or administrators, from or against his successors, if this Act had not been made, as the net annual income of the Benefice when reduced or divided shall bear to the net annual income thereof at the time of such vacancy, by such instalments, to be paid at such periods and in such manner as any Incumbent succeeding to such Benefices would have been bound or liable to pay the whole thereof if this Act had not been made; and every such successor is in every such case hereby exonerated and discharged from all liability to pay such proportion of such sum of money.

15 And be it Enacted, That whenever any Benefice of which the net annual income shall exceed *Five hundred Pounds*, or in which the Members of the Established Church shall not exceed *One hundred*, shall at any time after the *passing of this Act* become vacant in any manner whatsoever, it shall not be lawful to fill up any such vacancy, or appoint any successor in such Benefice, until the expiration of *Two* calendar Months after notice in writing of such vacancy shall have been given to the said Ecclesiastical Commissioners by the corporation or person having the patronage thereof or right of appointment thereto, and any appointment which shall be made without such notice previously given shall be null and void to all intents and purposes; and the said Ecclesiastical Commissioners and Lord Lieutenant in Council may and are hereby required to exercise all the powers hereby vested in them in relation thereto, in such manner as if such Benefice were vacant.

55.
Benefices becoming vacant after the passing of this Act not to be filled without notice.

30 And be it Enacted, That every person who shall be appointed to any Benefice in Ireland at any time after the *passing of this Act*, shall take and hold the same, and all property, rights and privileges thereunto belonging, subject to and under such alterations or provisions as shall or may at any time be made under the provisions of this Act, with respect to the extent or boundaries of such Benefice, or with respect to the amount, disposition and application of the property or income thereof: Provided always, That in the meantime and until any such provisions and regulations shall have been so made as aforesaid, and subject and without prejudice to any provisions and regulations which for the time being shall have been so made, such Incumbent shall and may have and exercise all the same powers and privileges as if this Act had not been passed.

56.
Persons hereafter appointed to Benefices to hold the same, subject to the provisions of this Act.

57.

The Ecclesiastical Commissioners to lay before the King Schemes for the more perfect distribution of Ecclesiastical Revenues and Duties.

And be it Enacted, That it shall and may be lawful for the said Ecclesiastical Commissioners, from time to time, to prepare and submit to His Majesty in Council, such schemes as shall appear to the said Commissioners to be proper or necessary for the more perfect distribution of Ecclesiastical Duties and Revenues by the severance or union of parishes, or the re-modelling of Benefices, or forming new Benefices, or augmenting or reducing the income of existing Benefices, or the purchase, sale or exchange of Glebes, or the erection of Glebe-houses, Churches and Chapels, or such other means as they may think fit in cases not within the provisions of this Act, or for which this Act may not be found by the said Commissioners to have made adequate or suitable provision; and it shall be competent to the said Commissioners, in any such scheme, to propose any modification or variation which they may think proper of the provisions of this Act, or of any previous recommendation which the said Commissioners may have made pursuant to such provisions, whether such recommendation shall have been carried into effect or not, and a copy of every such scheme, so submitted to His Majesty, shall be forthwith laid before each House of Parliament, if Parliament be then sitting, or if Parliament be not then sitting, within One Month after the next meeting thereof.

58.

The Ecclesiastical Commissioners shall compensate the Owners of Advowsons coming under the operation of this Act, unless such advowsons belong to the King or Ecclesiastical Corporations.

And be it Enacted, That in order to enable the said Ecclesiastical Commissioners to obtain the consent of the patron of any Benefice other than The King, or any Ecclesiastical Corporation to a reduction of the income thereof, or to the union thereof to any other Benefice, or to an alteration of the limits and extent thereof, it shall be lawful for the Lord Lieutenant in Council, where the right of appointment to any Benefice, or any turn therein, shall belong to the College of the Holy and Undivided Trinity near Dublin, or to any person other than The King, or any Ecclesiastical Corporation, sole or aggregate, and such Benefice shall be reduced in value, under the powers hereinbefore contained, to direct that some Benefice in the gift of His Majesty, or turn therein, shall be assigned to the said College or person by way of compensation or in lieu of or as an equivalent; and the advowson and the right of presentation to such Benefice so assigned, or turn therein, shall by force of such order vest in the said College or person in like manner to all intents and purposes, and subject to the like uses, trusts and limitations, if any, as the advowson and right of presentation to the said Benefice so reduced or united in whole or part to another Benefice may have been held for or under; or in case of the union of the whole or any part of such Benefice to another Benefice, and if the income assigned to the Incumbent of such newly-erected Benefice shall exceed the value of the Benefice to which such addition shall be made, it shall be lawful for the said Lord Lieutenant and Council, in whole or part of such compensation, to award to the person having the right of appointment,

appointment, or turn in such right of appointment, to the Benefice so united in whole or part to such other Benefice, such turn or turns in the right of appointment to such newly-erected Benefice as may appear just, regard being had to the relative value of the several Benefices or parts thereof constituting such newly-erected Benefice, and shall have power and authority for such purpose to regulate the right of appointment to each such newly-erected Benefice, and the course and succession in which the patrons thereof shall present thereto.

And be it Enacted, That the advowson or right of presentation to such Benefices in lieu whereof any Benefice in the gift of His Majesty shall have been so assigned as aforesaid, shall vest in and be exercised by His Majesty.

59.
Advowsons
exchanged
shall vest in
His Majesty.

And be it Enacted, That where the value of any Benefice shall be augmented under the provisions of this Act, and the right of appointment thereto or any turn therein shall belong to any person (other than The King or any Ecclesiastical Corporation, sole or aggregate), it shall be lawful for the said Lord Lieutenant in Council to direct and require the patron or patrons of such augmented Benefice to pay to the said Commissioners of Land Revenues such sum of money as he and they may think just in consideration of such augmentation; and in default of payment of such sum of money within *Six* calendar Months after demand thereof, by notice in writing, shall have been made and served upon such patron or patrons, the right of a turn in the presentation to such Benefice shall vest in and be exercised by His Majesty, and it shall be lawful for the said Lord Lieutenant in Council to fix by any order the number of turns which shall thereafter belong to His Majesty and to the said patron or patrons respectively, having due regard to the proportion which the augmentation may bear to the net annual value of the Benefice previous to such augmentation.

60.
Lord Lieuten-
ant, &c.
may require
Compensation
from Patrons
of augmented
Benefices.

And be it Enacted, That the funds accruing to the said Commissioners from the reduction of Benefices or otherwise under the provisions of this Act, shall be applied in the first place in the payment of all such sums as may be necessary to pay off the charges upon Benefices; and the residue of such monies from time to time accruing in each year to the said Ecclesiastical Commissioners shall form a separate fund, which shall be applicable, under their direction, to the building of Glebe-houses and to the building and enlarging of Churches or Chapels, and to the augmentation of Benefices, as authorized by the provisions of this Act.

61.
Application of
Monies arising
under this Act.

AND whereas by an Act passed in the Parliament of Ireland in the twenty-eighth year of the reign of King HENRY the Eighth, intituled, "An Act for the English Order, Habit and Language," it was among other

62.
Acts of
28 Hen. 8,
c. , and of
7 Will. 3, c. 7,
recited.

other things enacted, " that every Incumbent of each parish in Ireland should keep or cause to be kept within the place, territory or parish where he should have pre-eminence, rule, benefice or promotion, a school for to learn English, if any children of his parish come to him to learne the same, taking for the keeping of the same school such convenient stipend or salary as in the said land is accustomably used to be taken;" and it was also further enacted, that " every Archbishop, Bishop, Suffragan, Archdeacon, Commissary, and others having power and authority to admit, instal, collate, institute or induct any person to any dignity, benefice, office or promotion spiritual, should at the time of the admission, institution, installation, collation and induction of such person and persons to any dignity, benefice, office or promotion spiritual, give unto the said person and persons so admitted, instituted, installed, collated or inducted a corporal oath, that he and they so being admitted, instituted, installed, collated or inducted, shall to his wit and cunning, endeavour himself to learne, instruct and teach the English tongue to all and everie being under his rule, cure, order or governancè:" AND whereas by another Act passed in the same Parliament, in the seventh year of the reign of King WILLIAM the Third, intituled, " An Act to restrain Foreign Education," the said provisions were re-enacted and directed to be " strictly observed and enforced:" AND whereas it has been customary for the Incumbents of parishes, in discharge of the obligation thus imposed upon them, to pay a yearly sum of Forty Shillings to a schoolmaster therein: AND whereas it is just and necessary, for the promotion of religious and moral instruction, and the establishment of peace and good order in Ireland, to revise the said recited Act of the reign of King HENRY the Eighth, and to make provision for ascertaining a new scheme and rate of contribution towards the more effectual support and improvement of parish schools: AND whereas, under and by virtue of the said recited Act of the third and fourth years of His present Majesty's reign, a yearly tax, rate or assessment was made payable to the Ecclesiastical Commissioners for Ireland for the purposes of the said Act, from and out of the revenues, profits and emoluments appertaining or belonging to every Dignity, Benefice or Office, or promotion spiritual, of what name, nature, quality or description soever, in Ireland, according to a certain rate or scale specified and contained in a Schedule to the said Act annexed: AND whereas, under the provisions hereinbefore contained, additional funds will be applicable to certain purposes of the said Act of the third and fourth years of His present Majesty's reign, and it is expedient that the Incumbents of Benefices should be relieved from the obligation imposed upon them by the said Act of the reign of King HENRY the Eighth, and that in lieu thereof the said tax so payable under the said Act of the third and fourth years of His present Majesty's reign should be assessed according to a more adequate rate, and the proceeds thereof made applicable to the good purposes for which such obligation was imposed;

BE it therefore Enacted, That so much of the said Act of the reign of King HENRY the Eighth as provides that the Incumbent of each parish shall keep or cause to be kept any school therein, or as imposes any oath containing an obligation to that effect to be taken by any such Incumbent; and also so much of the said Act of the reign of King WILLIAM the Third as re-enacts and directs the said enactments of the said Act of the reign of King HENRY the Eighth to be enforced and observed, shall be and the same is and are hereby repealed, without prejudice nevertheless to any thing heretofore done under authority of the said Act or Acts.

So much of the said Acts as obliges the Incumbents of Benefices to keep Schools, and to take an Oath to that effect, repealed.

And be it Enacted, That the yearly tax, rate or assessment which the said Ecclesiastical Commissioners are by the said recited Act of the third and fourth years of His present Majesty's reign authorized to levy and receive, shall be computed and assessed in respect of each Dignity, Benefice, Office or promotion in the said Act mentioned, of what value soever, becoming void at any time after the passing of this Act, at the rate of Ten Pounds per centum per annum (instead of the several rates and scales contained in the Schedule to the said Act annexed), upon the valuation of the revenues, profits and emoluments thereof by such Act directed to be made.

63.
The Tax imposed by 3 & 4 Will. 4. c. 37. shall be assessed at the rate of 10 l. per cent. on Benefices, &c. becoming vacant after the passing of this Act;

And be it Enacted, That all and every the sums of money accruing due and payable to the said Ecclesiastical Commissioners from or on account of the said yearly tax, rate or assessment so to be computed and assessed upon the valuation of the profits, revenues and emoluments of every Dignity, Benefice, Office or promotion becoming void after the passing of this Act, shall, when and as such sums shall be received or recovered by the said Ecclesiastical Commissioners, be by them paid over to such bank or person as the Commissioners of His Majesty's Treasury, or any Three or more of them, shall appoint to receive the same, to be applied under such regulations as the said Commissioners of His Majesty's Treasury, or any Three or more of them, shall from time to time appoint and direct, to the moral and religious instruction of all classes of the people in Ireland, without distinction of religious persuasion.

64.
And applied to purposes of Education.

Provided always, and be it Enacted, That in respect of any and every such Dignity, Benefice, Office or promotion which may have become void since the passing of the said Act, and before the passing of this Act, the said tax, rate or assessment shall continue to be computed and assessed according to the several rates or scales contained in the Schedule to such Act annexed, and the proceeds thereof to be applied to the purposes of the said Act until the next avoidance of such Dignities, Benefices, Offices or promotions respectively, but that thereupon and for ever thereafter the said tax, rate or assessment shall be computed and assessed at the aforesaid rate of Ten Pounds per centum per annum, and the proceeds thereof

65.
Benefices, &c. which have become liable to Taxation under the said Act shall continue to be taxed at the same rate as heretofore during the term of the present Incumbents, and the Proceeds of the Tax thereon to be applied in like manner.

paid over pursuant to the directions of the said Commissioners of the Treasury, in like manner as the proceeds of such tax upon the revenues, profits and emoluments of Dignities, Benefices, Offices and promotions which may not have become void since the passing of the said Act, but which shall become void after the passing of this Act.

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66.

Save as aforesaid, the provisions of the said Act shall remain in full force.

Provided always, and be it Enacted, That all and every the provisions of the said recited Act in anywise relating to the said tax, or directing the mode of imposing, apportioning, levying and recovering the same, or describing the persons or property liable thereto, shall be and remain in full force and effect, save only as hereinbefore provided in respect of the rates or scales according to which the said tax was directed to be assessed, and the exemptions arising thereunder, and the application of the proceeds of the said tax.

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67.

Arrears of Instalments of certain Monies advanced by Commissioners of First Fruits, and due 1st July 1835, 1836 and 1837, not to be sued for;

AND whereas certain sums of money are now due and accruing due to the said Ecclesiastical Commissioners by reason of instalments accrued due in the year One thousand eight hundred and Thirty-five and One thousand eight hundred and Thirty-six, and accruing due in this present year, on account of monies lent and advanced by the Trustees and Commissioners of First Fruits in Ireland for the purposes of building Mansions or Glebe-houses, and making other improvements, or for the purchase of houses for the habitation and residence of Incumbents of Benefices and their successors, or for the purchase of Glebes or demesne lands for the erection of such Glebe-houses or offices, and which sums were vested in the said Ecclesiastical Commissioners by the hereinbefore recited Act passed in the fourth and fifth year of His Majesty's reign: AND whereas it is expedient to relieve the Incumbents who have been unable to pay such instalments for the said year One thousand eight hundred and Thirty-five and One thousand eight hundred and Thirty-six, and who may be unable to pay the same in this present year from immediate liability thereto, but so nevertheless that such sums shall remain charged upon their respective Benefices and promotions, and upon the Incumbents having or succeeding to the profits and emoluments thereof; BE it therefore Enacted, That it shall not be lawful for the said Ecclesiastical Commissioners to sue for, recover or receive any instalment which may have accrued due on the First day of July One thousand eight hundred and Thirty-five, or on the First day of July One thousand eight hundred and Thirty-six, or which may accrue due on the First day of July in this present year, or within Twenty-one Days after such respective days, on account of any monies lent or advanced by the said Trustees and Commissioners of First Fruits for the purposes aforesaid.

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68.

But Incumbents to pay same by yearly Instal-

Provided always, and be it Enacted, That nothing herein contained shall be construed to exonerate the Incumbent of any Benefice or his successors from

from the repayment of the sum so lent and advanced, but that such sum, or the residue now remaining unpaid, shall be repaid by annual instalments of the like amount as now required by law, the next whereof shall become due on the *First* day of *July* *One thousand eight hundred and Thirty-eight*, or within *Twenty-one* Days after, and the remaining instalments on the *First* day of *July*, or within *Twenty-one* Days after, in each succeeding year, until the whole sum lent and advanced as aforesaid shall have been repaid; and that such instalments shall be payable by the present Incumbent of each Benefice or his successors, and recoverable by the like means as now provided by law for the recovery of instalments payable in discharge and on account of monies lent and advanced by the said Trustees and Commissioners of First Fruits for the purposes aforesaid, and in all respects according to the like provisions, subject nevertheless to such apportionment or allocation of such charges or payments as may at any time be made by any order of the Lord Lieutenant in Council, made under the provisions hereinbefore contained.

And be it Enacted, That it shall be lawful for the said Ecclesiastical Commissioners to examine upon oath or affirmation (which oath or affirmation they, or any *One* or more of them, are and is hereby authorized to administer,) any person willing to be examined touching any matters or things relating to any proceeding under this Act, and also to receive any affidavit or deposition in writing, upon oath or affirmation, which shall be made in any part of the United Kingdom of Great Britain and Ireland, before any person having authority to administer an oath, or before any Justice of the Peace, or which shall be made in any parts beyond the seas before any magistrate of the county, territory or place, having competent power and authority to administer an oath, and certified and transmitted to the said Commissioners, or either of them, under the hand and seal of such magistrate.

69.
Ecclesiastical
Commissioners may
examine on
Oath or
receive
Depositions.

And be it Enacted, That if any person who shall make or take any oath, affirmation or affidavit under or in pursuance of the provisions of this Act, shall therein wilfully or knowingly swear, affirm or answer falsely to any matter or thing, every such person being duly convicted thereof shall incur and suffer such penalties, pains and disabilities as persons convicted of wilful and corrupt Perjury are by law liable to.

70.
Perjury.

And be it Enacted, That the said Ecclesiastical Commissioners shall and may employ such and so many Clerks or other officers as they may find necessary for the discharge of the duties by this Act imposed upon them, and allow to such Clerks and officers such salaries as they shall fix and appoint.

71.
Ecclesiastical
Commissioners may
employ additional
Clerks.

AND whereas doubts have arisen how far the several Acts for establishing Compositions for Tithes in Ireland extend to Tithes forming

72.
Tithe Com-
position Acts
shall be taken
to extend to
His Majesty.

part of the hereditary revenues and possessions of the Crown in Ireland; FOR the removal of which doubts, be it Enacted and Declared, That the said Act shall be deemed to extend to The King's Majesty, His heirs and successors, as if named therein, and that all Compositions for Tithes belonging or which may have belonged to His said Majesty are and shall be and be deemed to have been good, valid and effectual to all intents and purposes as any Compositions established in lieu of Tithes belonging to any other person. 5

73.
The Provisions of this Act shall extend to His Majesty.

And be it Enacted, That all and every the provisions of this Act shall apply and extend to the said Compositions for Tithes belonging to The King's Majesty, and that Rent-charges shall become payable in lieu thereof, and that such Rent-charges shall be collected and recovered, and in all other respects managed and dealt with according to the provisions of the Acts in force relative to the hereditary possessions and land revenues of the Crown in Ireland; and that nothing herein contained shall extend in any respect to alter or repeal the provisions of any Act or Acts now in force with respect to the application of the annual income arising from such Tithes or Compositions, or the sale thereof, or the application of the monies arising from any such sales, but that such last-mentioned provisions shall extend and apply to the annual income arising from the Rent-charges which will become payable in lieu of such Tithes or Compositions under the provisions of this Act, and to authorize sales thereof, and to direct the application of the monies arising from the sale of such Rent-charges, according to the nature thereof respectively, in like manner as to the annual income arising from such Tithes and the monies arising from sales thereof: Provided further, That nothing in this Act contained shall in any manner prejudice or affect the right of His said Majesty in or to any quit-rent or other rent or payment reserved upon or arising out of any grant, or payable on account of any Advowsons, Rectories, Vicarages, or other Benefice or preferment, or Office Spiritual or Tithes. 10 15 20 25 30

74.
Notices, how to be served.

And be it Enacted, That whenever any Notice required to be given by this Act cannot be delivered to the person to whom such Notice is directed, it shall be sufficient to leave the same at the last or most usual place of abode of such persons, if such persons shall be in Ireland, or if such person or persons shall be in any other part of the United Kingdom, or beyond the seas, then to publish the same in the Dublin Gazette. 35

75.
No Stamp Duty to be payable on Instruments required by this Act;

And be it Enacted, That no memorandum, contract or agreement to be made or entered into under the provisions of this Act; nor any deed, receipt or other instrument or counterpart thereof made, nor any receipt, order, copy, document, or other matter or thing relating to 40

to any proceeding or payment under this Act, nor any appointment, obligation or bond authorized or required by this Act, shall be subject or liable to any stamp duty whatsoever imposed by any Act or Acts now in force, or to be imposed by any future Act or Acts, unless
 5 the same be specially subjected thereto in and by such future Act or Acts.

And be it Enacted, That no search nor certificate thereof, or any other proceeding in any court or office, nor any payment nor investment which may be directed or sanctioned by any court or otherwise,
 10 for the purposes of this Act, shall be subject to any charge for any law or equity fund, nor to any Usher's poundage, nor fee imposed by any Act now in force or by any future Act, unless the same be specially mentioned and subjected thereto by this or some future Act.

76.
Nor Office
Fees.

15 And be it Enacted, That the words and expressions hereinafter mentioned, which in their ordinary signification have a more confined or a different meaning, shall in this Act, except where the nature of the provision or context of the Act shall exclude such construction, be interpreted as follows; (that is to say) the words " Lord Lieutenant of
 20 Ireland " shall extend to any Lords Justices or other Chief Governor or Governors of Ireland : and the words " Commissioners of Land Revenues " shall be construed to mean the Commissioners of His Majesty's Woods, Forests, Land Revenues, Works and Buildings ; and the word " Land " shall extend to manors, messuages and other
 25 hereditaments, whether corporeal or incorporeal, and whether freehold or copyhold, or of any other tenure ; and the word " Appointment " shall be construed to mean institution, collation, presentation, election, donation, nomination, license or induction ; and the word " appointed " shall be construed to mean instituted, collated, presented,
 30 elected, nominated, licensed or inducted ; and the words " Persons entitled to Compositions for Tithes, " or to any " Composition, " shall be construed to extend to and include all ecclesiastical persons and bodies corporate, sole or aggregate, lay or ecclesiastical or collegiate, and all Incumbents of parishes, whether Rectors, Vicars or
 35 Curates, and all impropiators and appropriators, and all persons whomsoever being the owners of or entitled or interested in any manner whatsoever, at law or in equity, whether in their own right or by virtue of any order or process of any court, as trustees, devisees, personal representatives, lessees, sequestrators, receivers, or otherwise,
 40 to any Tithes, or portion or portions of Tithes, or Composition established in lieu of Tithes, or portion or portions of such Composition, or who would have been so entitled to any such Composition if the same had not been suspended by virtue of any lease or agreement ; and the word " Person " shall extend to and comprise all and every

77.
Interpretation
of Words used
in this Act.

bodies politic and corporate, sole and aggregate, lay and ecclesiastical and collegiate ; and the words “ Compositions for Tithes ” shall extend and be applied to any portion or portions of a Composition, and to any Tithes or portion of Tithes, and to any part of a yearly payment thereof, as well as to a Composition ; and the word “ County ” shall 5 extend and be applied to any riding, county of a city or county of a town, or city and county, as well as a county at large ; and the word “ Parish ” shall extend and be applied to any part of a parish forming a distinct Benefice, and to extra-parochial place or places separately chargeable with any Composition for Tithes, as well as to 10 a parish ; and the word “ Benefice ” shall extend and be applied to every rectory, vicarage, perpetual curacy or donation, whether consisting of one or more parishes, or of any part or parts of one or more parishes ; and every word importing the singular number only shall extend and be applied to several persons or things as well as one 15 person or thing ; and every word importing the masculine gender only shall extend and be applied to a female as well as a male.

78.
Act may be
altered this
Session.

And be it Enacted, That this Act may be altered, amended or repealed by any Act to be passed in this present Session of Parliament.

Tithes (Ireland).

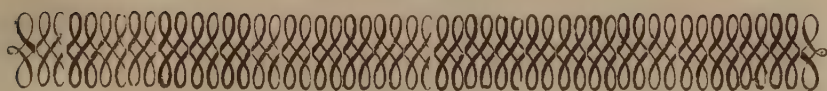
A

B I L L

For the better Regulation of Ecclesiastical
Revenues, and the Promotion of Religious
and Moral Instruction in Ireland.

(Prepared and brought in by
*Lord Viscount Morpeth, Lord John Russell and
Mr. Chancellor of the Exchequer.*)

*Ordered, by The House of Commons, to be Printed,
8 May 1837.*



(Ireland.)

A

B I L L

To amend the Laws for the Recovery of Small Debts by Civil Bill in Ireland.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WH **E**R **E**A **S** by an Act passed in the seventh year of the reign of his Majesty King **G**E **O**R **G**E the Fourth, intituled, “An Act to regulate the Service of the Process of the several Courts for the Recovery of Small Debts by Civil Bill in Ireland,” it was enacted, that at the several Sessions of the Peace in and for the several counties in Ireland, which should be holden in the month of October next after the passing of the said Act, each and every of the Assistant Barristers appointed under the authority of the Act therein recited, or of any Act for amending the same, should in manner therein enacted nominate and appoint such number of fit and proper persons, being householders residing in the principal market towns within the said counties, to be Officers for the service of Civil Bill Processes in the said county or division thereof, as should be specified and set forth in any such warrant respectively: And whereas Officers for the service of Civil Bill Processes have been appointed in the several counties in Ireland under the authority of the said Act, but the number thereof has in many counties been found to be insufficient for the effective service of Civil Bill Processes therein, and it has been doubted whether any new appointments can be made under the authority of the said Act of a greater number of such Officers at any time after the Sessions of the Peace holden next after the passing of the said Act; **B**E **i**t **t**herefore **E**nacted, by The **Q**UEEN’s most Excellent **M**AJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and

Preamble:
Power to
Assistant
Barristers to
appoint Pro-
cess Servers
in addition
to those ap-
pointed under
7 G. 4. c. 38.

Commons, in this present Parliament assembled, and by the Authority of the same, THAT at any Sessions of the Peace in and for the several counties in Ireland, or any riding thereof, which shall be holden after the *passing of this Act*, each and every of the Assistant Barristers appointed under the Acts for the recovery of Small Debts by Civil Bill in Ireland, or any of them, to be Assistants to the Justices at such Sessions, may and shall, by Warrant or Warrants under the hand and seal of each such Assistant Barrister respectively, nominate and appoint such number of fit and proper persons, qualified as in the said Act of the seventh year of the reign of his late Majesty is mentioned, as to said Assistant Barrister shall from time to time appear to be necessary, to be Officers for the service of Civil Bill Processes within such county, or within any riding thereof, or within such division of such county or riding as shall be specified in any such Warrant; and such Officers shall be in addition to the Officers already appointed and acting in such county, riding or division, under the said recited Act of the seventh year of the reign of King GEORGE the Fourth, and shall have the same powers, privileges and emoluments, and observe the several rules and regulations prescribed by the said Act respecting the Officers appointed under the authority thereof, and shall be removable in like manner, and their appointment shall be promulgated and made known in the manner directed by the said Act.

2.
Power to the
Assistant
Barrister in
certain cases
to substitute
Service of
Civil Bill
Process.

And be it Enacted, That in any case when it shall appear to the Assistant Barrister, by examination on oath, in open Court, at any Court of General or Quarter Sessions, or any adjournment thereof, that any officer appointed to serve the process of the said Civil Bill Court has been prevented, by forcible resistance, or by reasonable apprehension of personal injury, from effecting good service of any process of the said Court, it shall and may be lawful to and for such Assistant Barrister to direct, by an order to be signed by him, and entered in the book of the Clerk of the Peace, that posting a copy of such process on the court-house in which the Court may be then sitting, and on the usual place for posting notices in the nearest market-town to the residence of the defendant named in such process, or of one of the defendants, if there be more than one, at least *One* calendar Month before the *First day of the next Sessions* to be holden for the same division of the county or riding, shall be deemed good service of such process; and at foot of every such copy shall be affixed a notice that the same is so posted by order of the said Assistant Barrister, and that such posting will be held good service thereof; and upon its being proved on oath to the satisfaction of the Assistant Barrister at the next sessions holden for the same division, at the first town in which such sessions shall be holden, that such copy and notice have been so duly posted on some conspicuous part of said court-house, it shall be lawful for such Assistant Barrister,

risters, and he is hereby authorized and required to proceed to hear and determine such Civil Bill in all respects as if the process thereon had been personally served on the Defendant or Defendants named therein.

And be it Enacted, That so much and such parts of an Act passed
 5 in the last Session of Parliament, intituled, "An Act to extend the
 Jurisdiction and regulate the Proceedings of the Civil Bill Courts in
 Ireland," as relate to the appointment of Bailiffs for the execution of
 the decrees or orders of the Civil Bill Court for the county, and as pro-
 vide for the payment of any fee or poundage to such bailiff, and as
 10 enact that the sum or fee of *One* Shilling payable to sheriffs for special
 warrants shall be no longer payable, and as repeals the Act of the
 thirty-sixth year of the reign of King GEORGE the Third, therein men-
 tioned, so far as respects the payment of the said sum or fee of *One*
 Shilling shall be and the same are hereby repealed, and the appoint-
 15 ments of all bailiffs appointed under the said recited Act of the last
 Session shall henceforward cease and determine.

3.
 Repeal of
 parts of Sec-
 tions 41, 42,
 43 and 44, of
 6 & 7 W. 4,
 c. 75.

And be it Enacted, That all decrees and orders of the said Civil
 Bill Court which shall have been signed before the passing of this Act,
 and remaining unexecuted at the time of the passing hereof, and all
 20 decrees and orders hereafter to be signed shall be executed by the
 Sheriffs of the several counties in Ireland, or by persons authorized by
 them by special warrant, as if the said Act of the last Session of Par-
 liament had not been passed, and as if the said decrees or orders had
 been directed to such Sheriffs: Provided always, That decrees for de-
 25 livering possession made by an Assistant Barrister or Judge on appeal
 shall be executed by the Sheriff or his Deputy in person, in manner,
 and within the time, and for the fee in the said Act of the last Session
 directed in that behalf, and all decrees and orders of the said Court
 shall henceforward be directed to the Sheriffs of the several counties in
 30 Ireland, as before the passing of the said Act.

4.
 Decrees now
 unexecuted
 to be executed
 by the Sheriff.

And be it Enacted, That whenever it shall be certified by the
 Assistant Barrister of any county to the Grand Jury of such county
 that an Interpreter is necessary at the quarter sessions for such county,
 it shall and may be lawful for the Grand Jury to present, without any
 35 previous application at sessions, to be levied off such county, any sum
 not exceeding *Fifteen* Pounds at each assizes, as a salary or payment
 for such Interpreter.

5.
 Salary of
 Interpreter.

And be it Enacted, That it shall be lawful for such Assistant Barrister
 to appoint either one Interpreter for the whole of such county, or sepa-
 40 rate Interpreters for each district in which sessions shall be holden, at
 his discretion, and to direct the salary to be presented as aforesaid to
 be paid among such Interpreters, if more than one shall be appointed,

6.
 Assistant
 Barrister
 to appoint
 Interpreter or
 Interpreters.

in such manner as he shall think fit ; and that, upon a certificate signed by such Assistant Barrister, specifying the amount of such payment being produced to the Treasurer of such county, it shall be lawful for such Treasurer to pay to such Interpreter or Interpreters after every assizes the amount of the payment mentioned in such certificate, not exceeding in the whole the sum presented by the Grand Jury for that purpose.

5

7.
Assistant
Barrister em-
powered to
remove
Interpreter.

And be it Enacted, That each and every such Interpreter may be removed at the will and pleasure of the Assistant Barrister of such county for the time being, and that any other person or persons may be appointed in his place by such Assistant Barrister.

Civil Bill Courts.

(Ireland.)

A

B I L L

To amend the Laws for the Recovery of
Small Debts by Civil Bill in Ireland.

(Prepared and brought in by
Lord Morpeth and the Attorney General
for Ireland.)

Ordered, by The House of Commons, to be Printed,
23 June 1837.

26 April 1837.—7 WILL. IV.



A

B I L L

To amend an Act of the Thirteenth Year of the Reign of King
 GEORGE the Third, for the better Cultivation, Improvement
 and Regulation of the Common Arable Fields, Wastes and
 Commons of Pasture in this Kingdom.

[Note.—The Words printed in *Italics* are proposed to be inserted
 in the Committee.]

WH E R E A S by an Act passed in the thirteenth year of the reign
 of his late Majesty King GEORGE the Third, intituled, “An Act
 for the better Cultivation, Improvement and Regulation of the Common
 Arable Fields and Pastures of this Kingdom,” it was amongst other things
 5 enacted, That in every Manor where there are Stinted Commons, in lieu
 of demising or leasing part thereof (in the manner and for the purposes
 in the said recited Act mentioned), one or more assessment or assess-
 ments upon the lord or lords, lady or ladies of such Manor, and the
 persons being owners or occupiers of such Commons, or their agents
 10 or managers, shall or may at their option be made, levied and collected
 by such person and persons, and allowed in such manner as the lord
 or lords, lady or ladies of such Manor, and the major part in number
 and value of the owners or occupiers of such Commons present at a
 meeting to be held within the said Manor, in pursuance of Fourteen
 15 Days’ notice to be given by the lord or lords, lady or ladies, or his, her
 or their agent, in the manner in the said Act mentioned, of the time
 and place of meeting for that purpose, shall direct and appoint in that
 behalf; and the money thereby raised shall be employed and accounted
 for according to the orders and directions of the said lord or lords,
 20 lady or ladies, and such majority of the owners and occupiers as
 aforesaid, in the improvement of such Commons from time to time as
 need shall require; and the said assessments shall, by virtue of a
 warrant under the hand and seal of one Justice of the Peace, be levied
 by distress and sale of the goods and chattels of every person so

Preamble :
 13 Geo. 3. c.
 81.

assessed and not paying the same within Ten Days after being demanded, rendering the overplus of the value of the goods so distrained (if any) to the owner or owners thereof, the necessary charges of making such distress and sale being first deducted :

And whereas there are various Common Lands, not being Stinted Commons, for the fencing, draining and improvement of which the provisions of the said recited Act may be beneficially applied ;

BE it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT so much of the said recited Act as is hereinbefore mentioned shall extend to all cases of Common or Waste Land, whether the same shall be within the precincts of any Manor or otherwise, and whether the same shall be stinted or unstinted ; and all monies which may be raised under the authority of the said recited Act, by the ways and means in the said recited Act mentioned, shall be expended from time to time, in the manner and under the directions in the said recited Act contained, in the fencing, draining and improving such Common Lands from time to time as may be expedient.

1.
The provisions of the said Act, so far as the same recited or referred to, extended to all Commons.

2.
No Assessment to be made on persons only possessing right of Turbary.

Provided always, and be it Enacted, That no assessment shall be made on any person or persons whomsoever for the purposes aforesaid who may only possess a common of turbary on such Commons, but such assessments shall be made and levied exclusively on the lord or lords, lady or ladies, and the several persons possessing rights of common of pasture on such Commons.

3.
Interest of Owners to be ascertained according to the Poor-rate.

And be it Enacted, That the interest of the several persons, owners of the said Common Lands and the commonable rights thereon, shall for the purposes of this Act be ascertained by the assessments of the said Common Lands, or of the several lands and tenements in respect of which such rights of common are claimed and enjoyed, or of the said rights of common themselves, to the rate which may be subsisting for the time being for the relief of the poor in the several parishes or townships wherein such Commons may be situate.

4.
Appeal.

And be it Enacted, That it shall be lawful for all persons who shall think themselves aggrieved by any thing which may be done by virtue of this Act, or the said recited Act, to appeal to the General or Quarter Sessions of the Peace which shall be held in or for the County, Riding or Division wherein the Common Lands, or the greater part thereof, in respect of which the matter of complaint may arise, shall be situated, or at any adjournment thereof, within Six calendar Months next after the cause of complaint shall have arisen, first giving or causing to

(3)

to be given *Twenty-eight Days'* notice in writing to the parties intended to be appealed against, setting forth the cause and matter of such appeal; and the appellant, on the hearing of such appeal, shall not be allowed to go into any other matter than what is stated in his said
5 notice; and the Justices at their said Quarter Sessions, or at any adjournment thereof, are hereby authorized and required to hear and determine the matter of every such appeal, and to make such order in every such case respectively, and to award such costs as to them in their discretion shall seem meet, and by their warrant to levy such
10 costs by distress and sale of the goods and chattels of the parties adjudged to pay the same, rendering the overplus, if any, to the respective owners of such goods and chattels, after deducting the reasonable charges of such distress and sale; and every determination of the said Justices shall be final and conclusive on all parties concerned; and no
15 such complaint, appeal or proceeding shall be removed or removable by certiorari or any writ or proceeding whatever into any of His Majesty's Courts of Record at Westminster or elsewhere; but in case such appeal shall appear to the said Justices to be frivolous, vexatious or without foundation, then the said Justices shall award
20 such costs to be paid by the appellant or appellants as to them in their discretion shall seem reasonable, and to be levied in manner aforesaid.

And be it Enacted, That this Act may be altered, amended or repealed by any Act or Acts to be passed in this present Session of Parliament.

5.
Act may be
altered, &c.

Common Fields Act Amendment.

A

B I L L

To amend an Act of the Thirteenth Year of the Reign of King GEORGE the Third, for the better Cultivation, Improvement and Regulation of the Common Arable Fields, Wastes and Commons of Pasture in this Kingdom.

(*Prepared and brought in by
Lord Worsley and Mr. Penderves.*)

*Ordered, by The House of Commons, to be Printed,
26 April 1837.*

3 February 1837.—7 WILL. IV.



A

B I L L

To abolish certain Offices in the Superior Courts of Common Law, and to make Provision for a more effective and uniform Establishment of Officers in those Courts.

[Note.—The Words and Clauses printed in *Italics* are proposed to be inserted in the Committee.]

WHEREAS in His Majesty's Superior Courts of Common Law at Westminster there are many Officers whose duties have wholly or in part ceased, or are executed by deputy, and whose offices have become by changes in the law useless, and inapplicable to the present practice and proceedings in those Courts; though the Fees due to such offices continue payable by the Suitors as heretofore: And whereas by an Act passed in the eleventh year of the reign of King GEORGE the Fourth, and the first year of the reign of His present Majesty, intituled, "An Act for regulating the Receipt and future Appropriation of Fees and Emoluments receivable by Officers of the Superior Courts of Common Law," the net annual value of certain of such offices has been ascertained, and the persons who were the holders thereof prior to the Twenty-fourth day of May One thousand eight hundred and Thirty are compensated in manner and form by that Statute pointed out: And whereas the continuance of sinecure and useless offices tends to impair the effective administration of justice, and to cast upon the public and the suitors in those Courts unnecessary burthens and costs; and it is expedient to abolish the said Offices, and to make provision for a more uniform and effective establishment of Officers in each of the Superior Courts of Common Law; **BE it therefore Enacted**, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the day of *One thousand eight hundred and Thirty-*

Preamble.

11 G. 4. and
1 W. 4. 58.1.
Certain
Offices in
the Courts
of King's

7.

A

seven,

Bench, Common Pleas, and Exchequer abolished.

seven, the Offices mentioned in the Schedule to this Act annexed, marked (A.), on the Plea Side of the Courts of King's Bench and Exchequer, and in the Court of Common Pleas, shall be and the same are hereby abolished.

2.
Clerk of Errors in the Court of Exchequer Chamber abolished.

AND whereas the duties of the Clerk of Errors in the Court of Exchequer Chamber are so much diminished as to render it inexpedient any longer to continue a separate Office for the performance thereof; BE it further Enacted, That from and after the day of *One thousand eight hundred and Thirty-seven* the said office of Clerk of the Errors in the Court of Exchequer Chamber shall be and the same is hereby abolished; and all acts, duties and services now and heretofore done, performed and rendered by the said officer shall continue to be done, performed and rendered by the Masters of the respective Courts from which Error is brought; and such acts, duties and services when so done, performed and rendered by the said Masters, or their successors, or any one or more of them, shall be good and valid in law to all intents and purposes; and all lawful powers and authorities now and heretofore vested in or exercised by the said Clerk of Errors in the Court of Exchequer Chamber, by virtue or in right of his office, shall be exercised by the said Masters; and all lawful Fees and Emoluments now and heretofore taken and received by the said Clerk of Errors in the Court of Exchequer Chamber, in right of his office, shall, from and after the said day of *One thousand eight hundred and Thirty-seven*, continue to be taken and received by the Masters of the respective Courts appointed by this Act, or their successors, to be by such Masters accounted for and appropriated in the manner and form hereinafter provided for.

3.
Certain Persons appointed as Masters or Principal Officers of the said Courts, in lieu of the Officers abolished.

And be it further Enacted, That from and after the said day of *One thousand eight hundred and Thirty-seven* there shall be in each of the said Courts respectively, to conduct the civil business thereof, *Five* principal Officers, and no more, to be called respectively the Masters of each of the said Courts; and the persons mentioned in the Schedule to this Act annexed, marked (B.), shall be and the same are hereby appointed and declared to be such Masters in each of the said Courts respectively.

4.
Henry Belward Ray, esq. to be First Master of the Common Pleas.

Provided always, and it is hereby further Declared and Enacted, That Henry Belward Ray, Esquire, shall hold and enjoy the said appointment or office of First Master of the Court of Common Pleas during the same term, and with and under and subject to the same estate, title and tenure as he heretofore held the office of Prothonotary of the Court of Common Pleas, and with all and every the incidents, rights, powers, authorities and privileges which heretofore

fore belonged, were attached or incident to the said office, except so far as is specifically enacted by this Act, or so far as such rights, powers, authorities or privileges may be incompatible or inconsistent with the enactments herein contained, or any of the duties or obligations hereby imposed.

And be it further Enacted, That from and after the said day of *One thousand eight hundred and Thirty-seven* all acts, duties and services now and heretofore done, performed and rendered by the said officers abolished by this Act, or any of them, in their respective Offices in the said Courts, shall continue to be done, performed and rendered by the Masters hereby appointed in each of those Courts, or their successors, or any one or more of them; and such acts, duties and services, when so done, performed and rendered by the said Masters, or their successors, or any one or more of them, shall be good and valid in law, to all intents and purposes; and all lawful powers and authorities now and heretofore vested in or exercised by the officers so abolished as aforesaid, or any of them, by virtue or in right of any office by them held in either of the said Courts, shall be and the same are hereby vested in and shall be exercised by the Masters of those Courts respectively to which the office belonged by virtue and in right of which such power or authority is now and had been heretofore vested in and exercised by such abolished Officers.

5.
Masters of the said Courts to perform all the duties, and exercise all the powers and authorities of the Officers abolished by this Act.

AND whereas it is expedient that a new Table or Tables of the Fees proper to be taken in the Superior Courts of Common Law at Westminster, should be prepared with reference to the various changes and alterations which have taken place in the process, practice and proceedings of those Courts, and to the diminution of expense, where practicable, to the Suitors: AND whereas by an Act passed in the third year of the reign of King GEORGE the Fourth, intituled, "An Act to enable the Judges of the several Courts of Record at Westminster to make Regulations respecting the Fees of the Officers, Clerks and Ministers of the said Courts," it was enacted, that it should be lawful for any Three or more of the Judges of the Courts of King's Bench, Common Pleas, Exchequer and Exchequer Chamber respectively, to establish and ordain, by their discretion, Tables of Fees to be thereafter taken by the several Officers, Clerks and Ministers of the same respective Courts, and by the Clerks and Officers of the Judges thereof respectively; and that the Fees so established and ordained should be deemed and taken to be the lawful Fees of such Officers, Clerks and Ministers respectively:" AND whereas, owing to the numerous and important duties and avocations of the said Judges, no such regulations respecting Fees have yet been or are likely to be made, but the ancient and unsuitable Fees still continue to be taken from

6.
Commissioners of His Majesty's Treasury empowered to direct drawing up Table of Fees.

the Suitors in the said Courts; BE it further Enacted, That it shall and may be lawful for the Commissioners of His Majesty's Treasury, and they are hereby required to direct and instruct the Commissioners appointed under the before recited Act, passed in the eleventh year of the reign of King GEORGE the Fourth and the first of His present Majesty, or such of them as they may think proper, to prepare and draw up a Table or Tables of the Fees proper to be demanded, and taken in the Superior Courts of Common Law, to be laid for their approval before the Judges of the said Courts; and the said Judges are hereby empowered and required, on or before the

day of ~~April~~ to revise the said Table or Tables of Fees so prepared as aforesaid and to add to, or reduce, alter or amend the same as they may deem necessary and proper; and the said Table or Tables of Fees so revised and corrected as aforesaid to allow and sanction, by affixing their signatures respectively thereto, and to establish the same in and for their respective Courts; which Tables of Fees shall be entered or enrolled in the public Books or Records of the Courts to which they respectively relate, in such manner as the persons establishing the same shall think fit; and the Fees so established and ordained, and no other shall, from and after the establishment and ordaining thereof, and the entering or enrolment of such Tables as aforesaid, be deemed and taken to be the lawful Fees of the Officers, Clerks and Messengers of the said Courts, and shall and may be demanded, received and taken accordingly.

7.
Records, &c.
of abolished
Offices trans-
ferred to the
Masters, and
Searches may
be made and
Copies taken
as heretofore.

And be it further Enacted, That all the Records, Books, Papers, and Documents of and concerning the duties and business of the several Offices of the Courts of King's Bench, Common Pleas and Exchequer, so abolished as aforesaid, shall, on or before the said day of *One thousand eight hundred and Thirty-seven* be delivered by the several officers of the said Courts respectively, now having the custody of the same, into the custody and possession of the Masters of the said Courts respectively appointed or to be appointed under or by virtue of this Act, to be by them kept and preserved; and searches may be made, and copies or extracts of and from the said Records, Books, Papers and Documents shall and may be had and taken, at such times and in such manner as hath been the accustomed practice in the several Offices hereby abolished; and all such copies or extracts signed and authenticated by one or more of the said Masters of the said Courts respectively shall be as available in evidence and as valid and effectual to all intents and purposes as if the same had been signed, authenticated and given by the Officers whose offices are hereby abolished, or any of them, subject nevertheless to such rules, orders and regulations as the said Courts shall or may from time to time make or ordain in respect of the same.

And

And be it further Enacted, That the Chief Clerk of the Court of King's Bench, the Prothonotaries of the Court of Common Pleas, and the Masters and Prothonotaries, of the Court of Exchequer, whose Offices are abolished by this Act, shall and they are hereby required, on or before the ~~first~~ day of ~~January~~ *One thousand eight hundred and Thirty-seven*, to pay over to the Masters of the said Courts respectively appointed by this Act all and every sum and sums of money which shall at any time theretofore have been paid into the said respective Courts by or on behalf of Suitors, to abide the event of any suit, or for any purpose whatsoever, and which shall then remain unclaimed and undisposed of in the hands and possession of the said Chief Clerk of the Court of King's Bench, or the said Prothonotaries of the Court of Common Pleas, or the said Masters and Prothonotaries of the Court of Exchequer; and the said last-mentioned officers respectively shall and they are hereby required, at the time of their paying over the said monies to the Masters of the said Courts respectively as aforesaid, to render to such Masters an account thereof, showing the precise amount paid into Court in each action, the names of the Plaintiff and Defendant, and of their Attornies; and the time when, and by whom, and the purpose, so far as the same can be ascertained, for which the said amount was so paid in, which account the said Masters shall cause to be entered in books to be kept in their offices respectively for that purpose; and the Masters of the said Courts respectively shall and they are hereby required, immediately after the receipt of such sum or sums of money, to pay the same into the Bank of England to an account to be opened by the Masters of the said Courts respectively in the books of the Governor and Company of that Bank, to be called the "Account of the Suitors' Fund of the Court of King's Bench, Common Pleas, or Exchequer," as the case may be, which accounts respectively the Governor and Company of the Bank of England are hereby authorized and required to open in their books accordingly.

And be it further Enacted, That from and after the said day of ~~January~~ *One thousand eight hundred and Thirty-seven* the Masters of the said Courts respectively shall cause all and every sum or sums of money paid into the said Courts by or on the behalf of the Suitors in either of those Courts, to abide the event of the suit, or for any other purpose whatsoever, to be entered in proper books to be kept for that purpose, and shall forthwith pay all and every such sum or sums of money into the Bank of England to the credit of their respective accounts of the Suitors' Fund to be opened as aforesaid; and the Masters of the said Courts respectively, or any *Two* or more of them, shall and they are hereby authorized and required to draw on the said Governor and Company of the Bank of

8.
Certain Officers whose Offices are abolished, to pay over to Masters under this Act all balances in their hands of Suitors' Money to be by such Master paid into the Bank of England.

9.
All Monies deposited in Court by Suitors at or after the commencement of this Act to be paid into the Bank of England, and drawn out by the order of Two or more of the Masters of each Court.

England for any sum or sums of money so paid in as aforesaid, either at the commencement of this Act or afterwards, which the Masters of the said Courts respectively may require for the purposes of any suit pending in their respective Courts; and the said Governor and Company of the Bank of England are hereby authorized and required to pay all such sums of money as may be so drawn for by any order signed by the Masters of the said Courts respectively, or any *Two* or more of them. 5

10.
Future Masters to be appointed by the Lord Chief Justices or the Lord Chief Baron of the said Courts respectively.

And be it further Enacted, That when and so often as any vacancy shall occur in any of the said offices of Master in either of the said Superior Courts of Common Law, by death, resignation or otherwise, it shall and may be lawful for the Lord Chief Justice or Lord Chief Baron of the Court in which such vacancy shall occur, to nominate and appoint some fit and proper person to fill such vacant office, such person being a Barrister in actual practice of not less than *Five* years' standing at the Bar, or who shall have practised as a Pleader for not less than *Five* years, or an admitted Attorney in all or any one of those Courts in actual practice of not less than *Five* years' standing on the Rolls of such Court, or who shall have served as Clerks for not less than *Five* years, in either of the offices of the said Masters: Provided always, That nothing herein contained shall extend, or be construed to extend, to affect the rights of appointment of certain of the Masters on the Plea Side of the Court of Exchequer, now vested in William Stewart Rose, Esquire, under and by virtue of an Act passed in the second and third years of the reign of His present Majesty, intituled, "An Act for the better Regulation of the Duties to be performed by the Officers on the Plea Side of the Court of Exchequer." 10 15 20 25

2 & 3 W. 4.
c. 110.

11.
Thenecessary Clerks and Messengers in the Masters' Office to be appointed by the Masters, the number to be fixed by the Lord Chief Justices or Lord Chief Baron of the said Courts respectively, a preference being given to those persons who are now employed in the said Courts.

And be it further Enacted, That from and after the said day of *One thousand eight hundred and Thirty-seven*, the Masters of each of the said Courts hereby appointed, and their successors, shall and may, in and for the discharge of the duties of their offices, have so many Clerks and Messengers as the Lord Chief Justice or Lord Chief Baron of the Court for the time being to which such Masters respectively belong, shall determine to be necessary and proper; and all such Clerks and Messengers shall and may be appointed by the *majority* of the Masters of the said Courts respectively, with the sanction and approval of the Lord Chief Justice or Lord Chief Baron of the Court to which such Masters shall belong: Provided always, That so many of the persons who now hold any office abolished by this Act, or are now employed therein, as may be needful, shall be appointed as such Clerks and Messengers, if they shall be found willing and competent to execute the duties required of them, in preference 30 35 40

ference to any persons who shall not have held such abolished offices, or been so employed prior to the *passing of this Act*.

And be it further Enacted, That all such appointments of Masters, Clerks or Messengers to be made by virtue of this Act, shall be so
 5 made by the Lord Chief Justice or Lord Chief Baron, or by the Masters of the said Courts respectively, without any pecuniary or other consideration whatsoever, directly or indirectly, to be paid or received for the same ; and the persons appointed or to be appointed as such Masters, by virtue of this Act, shall hold their offices during
 10 the good behaviour of the persons so appointed ; and the persons to be appointed by virtue of this Act as such Clerks and Messengers, shall hold their offices or situations during pleasure ; and all such Masters, Clerks and Messengers shall execute their duties in person, and shall give their attendance in Court or elsewhere, and shall
 15 conduct the business of their several Departments or Offices at such places and hours, whether in term time or vacation, and in every respect in such manner as the Lord Chief Justice or the Lord Chief Baron and the other Justices and Barons of the said Courts respectively shall from time to time order and direct.

12.
 Appointments to be made without any pecuniary consideration, the Masters during good behaviour, and the Clerks and Messengers during pleasure.

20 Provided always, and be it further Enacted, That if either of the said Masters shall, from sickness or other unavoidable cause, have occasion to be absent from the business of his office for a longer period than *Two Months* at any one time, then and in every such case it shall and may be lawful for the Lord Chief Justice or Lord
 25 Chief Baron for the time being, of the Court to which such Master shall belong, to give leave of absence, by his order in writing, to such officer, and, if necessary, to appoint a Deputy in his place during such time as shall be expressed in such order, and the name of such Deputy, and also the cause and time of such absence shall be stated
 30 in such order ; and such Deputy may, if occasion require it, be changed by the Lord Chief Justice or Lord Chief Baron ; and every Deputy so appointed shall be paid by the principal for whom he shall act such remuneration for his services as the said Lord Chief Justice or Lord Chief Baron shall direct in such order, not being
 35 in any case less than *one-third* of the amount hereinafter fixed and settled as the salary of the Office of a Master of the said Courts respectively.

13.
 In case of sickness or other reasonable cause, the duties of the Masters may be performed by Deputy.

And be it further Enacted, That no person holding such office of Master in any of the said Superior Courts, or being a Clerk or Mes-
 40 senger in any of the said Masters' Offices, shall either directly or indirectly act as a Barrister, Attorney or Solicitor, or as Agent of any Attorney or Solicitor, in any Court of Law or Equity in the United

14.
 Masters, Clerks and Messengers not to act as Barristers, Attornies or Agents.

Kingdom; either separately or in partnership with any other, during such time as he shall hold such office of Master, or act as such Clerk or Messenger: Provided always, That nothing in this Act contained shall operate to prevent any Attorney or Solicitor, or Agent of any Attorney or Solicitor, now practising in any Court of Law or Equity, and employed in any office abolished by this Act, and who may be appointed to act as Clerk or Messenger under this Act, from continuing to practise as such Attorney, Solicitor or Agent, notwithstanding such appointment. 5

15.
Salaries of the
Masters fixed.

And be it further Enacted, That the Masters of the said Courts of King's Bench, Common Pleas and Exchequer respectively, shall receive, by way of salary, for performing the duties of their respective offices, the sum of *One thousand two hundred Pounds* per annum each, to commence and be computed from the day of *1801* *One thousand eight hundred and Thirty-seven*, and to be paid and be payable quarterly, namely, on the *Thirty-first* day of *March*, the *Thirtieth* day of *June*, the *Thirtieth* day of *September* and the *Thirty-first* day of *December* in every year, together with a proportional part of such annual sum for the term which at the decease of the person entitled thereto shall have elapsed since the last payment thereof: 10
Provided always, That those persons appointed by this Act, or who may be hereafter appointed as such Masters, and who are now entitled to and are in the receipt of compensation allowance awarded to them under the provisions of an Act passed in the eleventh year of the reign of King GEORGE the Fourth, and the first year of the reign 15
of His present Majesty, intituled, "An Act for regulating the Receipt and future Appropriation of Fees and Emoluments receivable by Officers of the Superior Courts of Common Law," exceeding the Salary of *One thousand two hundred Pounds* per annum, shall continue to receive the full amount of such compensation allowance by way of Salary so long as they shall respectively hold the office of Master as aforesaid; and in cases wherein the compensation allowance under the said Act is less than the salary hereby granted to the Masters of the said Courts respectively, such compensation allowance shall merge and be considered as part of and included in the 20
said salary of *One thousand two hundred Pounds* per annum: Provided always, That nothing herein contained shall extend, or be construed to extend, to deprive Stephen Richards, Kenrick Collett, Thomas Dax, Edmund Walker, and George Chilton, Esquires, the present principal officers on the Plea side of the Court of Exchequer, 25
of the amount of official income and salary which they are now in the receipt of respectively, so long as they shall hold the office of Masters under this Act, but that the said persons shall continue in the enjoyment 30
ment 35
40

11 G. 4. &
1 W. 4. c. 58.

ment of the same official income by way of salary which they now respectively receive during all the time they respectively hold such offices of Masters under this Act.

- And be it further Enacted, That the Clerks and Messengers who shall be appointed as hereinbefore directed to discharge the duties of the offices of the Masters of the said Courts respectively shall receive by way of salary for the performances of the said duties such annual sum as the Lord Chief Justice or the Lord Chief Baron of the said Courts respectively and the Commissioners of His Majesty's Treasury shall from time to time fix and determine, and such Salaries shall commence and be computed from the said day of *One thousand eight hundred and Thirty-seven* and shall be paid and payable quarterly, namely, on the *Thirty-first* day of *March*, the *Thirtieth* day of *June*, the *Thirtieth* day of *September*, and the *Thirty-first* day of *December* in every year, together with a proportional part of such annual sum for the time which at the decease of the person entitled thereto shall have elapsed since the last payment thereof: Provided always, That if any of the persons appointed as Clerks or Messengers under the provisions of this Act shall be entitled to and in the receipt of compensation allowance awarded to them under the hereinbefore recited Act, which shall exceed the amount of salary fixed and determined as aforesaid, such persons shall be entitled to and shall receive the full amount of such compensation allowance by way of salary so long as they shall respectively hold their offices or situations under this Act; and in cases wherein such compensation allowance shall be less than the amount of salary so fixed and determined, the same shall merge and be considered as part of and included in the said salary.

16.
Salaries of necessary Clerks and Messengers to be fixed by the Lord Chief Justices or Lord Chief Baron of the Courts respectively, and the Lords of the Treasury.

- And be it further Enacted, That the Salaries and Compensation Allowances by way of Salary hereinbefore granted to the several Masters of the said Courts respectively, and also the Salaries and Compensation Allowances by way of Salary which shall and may be granted to the several Clerks and Messengers in the offices of the Masters under the provisions of this Act, together with the necessary and unavoidable expenses of the said offices respectively, shall be paid and payable out of and be charged and chargeable upon the Fees received by the Masters in the said Courts respectively; and the surplus of such Fees arising in each of the said Courts, after the payment of the said Salaries and expenses, shall be paid into the receipt of the Exchequer to the credit of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, at such times and in such manner as the Commissioners of His Majesty's Treasury for the time being shall think proper to direct; and in the event of the Fees so received by the Masters of any one of the said Courts being

17.
Salaries of Masters, &c. and Expenses of Offices to be paid out of the Fees, if sufficient, but if not, deficiency to be charged upon the Consolidated Fund, and surplus of Fees to be paid into that Fund.

at any time insufficient to defray the said Salaries and other necessary expenses, it shall be lawful for the said Commissioners of His Majesty's Treasury, or any *Three* or more of them, and they are hereby authorized and required, to direct the amount of such deficiency to be charged upon and paid out of the said Consolidated Fund. 5

18.
Masters,
Clerks and
Messengers
not to take
Gratuities, on
pain of dis-
missal.

And be it further Enacted, That if any Master of the said Courts respectively appointed or to be appointed under or by virtue of this Act, or any person whatever employed in the offices of the said Masters, shall, for any thing done or pretended to be done relating to his office or employment, or under colour of doing any thing relating to his office or employment, or for forbearing to do any act properly appertaining to his said office, demand, take, receive, or accept, or allow any person whatsoever to take for him or on his account, or for or on account of or in trust for him or any other person named by him, any gratuity, perquisite or reward, or any thing of value, other than the lawful fees and emoluments hereinbefore directed to be taken and received and accounted for as aforesaid; or other than the salary or remuneration allowed or to be allowed to every such Master or person aforesaid, it shall be lawful for the said Lord Chief Justice or Lord Chief Baron of the Court to which such Master or person shall belong, and he is hereby empowered and required, upon his being satisfied that the person charged is guilty of so offending, to remove him from his office or employment; and the person so removed shall be and is hereby rendered incapable for ever thereafter of holding any office, situation or employment in the said Courts respectively, or of otherwise serving His Majesty, his Heirs or successors, in any manner whatsoever. 10 15 20 25

19.
Masters to
keep Books
of Account,
and render
Accounts
quarterly to
Treasury.

And be it further Enacted, That the Masters of the said Courts respectively shall cause all fees received by them, and all disbursements made thereout for salaries and other necessary expenses, to be duly and regularly entered in one or more books to be kept for that purpose in their offices, distinguishing the Fees received under their several heads, and also the particulars and amount of every disbursement, and shall quarterly, within *One Month* after the *Thirty-first* day of March, the *Thirtieth* day of June, the *Thirtieth* day of September, and the *Thirty-first* day of December in every year, render a true and faithful account in writing to the Commissioners of His Majesty's Treasury for the time being of all such Fees and Disbursements, in such form of account, and with such particulars of receipt or otherwise, and accompanied by such vouchers as the said Commissioners shall from time to time think proper to require and direct; and if upon the examination of any such 30 35 40

such Account it shall appear to the said Commissioners that any Fees have not been duly accounted for, or that any unreasonable or improper charge or deduction has been made in such Account, it shall be lawful for the said Commissioners finally to settle and adjust the same in such way as they may think reasonable and proper, and the Masters of the said Courts by whom such Account shall have been rendered shall and they are hereby required to alter and amend the said Account accordingly: Provided always, That the Masters of the said Courts respectively shall submit their Books of Account to the inspection of the said Commissioners of His Majesty's Treasury, or any person or persons whom they may employ for that purpose, whenever the said Masters shall be required so to do.

And be it further Enacted, That every person appointed or to be appointed under the provisions of this Act as a Master of the said Courts respectively, or as a Clerk or Messenger in the Offices of any of such Masters, and who was entitled to and has received compensation or salary in respect of the office formerly held by him under the Act hereinbefore mentioned, passed in the eleventh year of the reign of King GEORGE the Fourth, and the first year of the reign of His present Majesty, or under that Act and any other Act or Acts of Parliament, regulating or relating to his office or situation, who shall hereafter resign his office or situation, with the sanction and under the authority of the Lord Chief Justice or Lord Chief Baron of the Court to which he shall belong, shall be entitled to receive, during his life; such annual sum as the Commissioners of his Majesty's Treasury shall think proper to fix and appoint, not exceeding in any case the net annual value of the office or situation formerly held by him, and not being less in any case than *Three-fourths* thereof, provided that such annual sum shall exceed the superannuation allowance to be ascertained as hereinafter mentioned; and every person appointed or to be appointed to any situation as aforesaid under this Act, where such annual sum shall amount to a less sum than the superannuation allowance to be ascertained as hereinafter mentioned, or who was not entitled to and has not received compensation in respect of any former office held by him under the provisions of the said Act, and who shall hereafter resign his office or situation in consequence of his being incapable, from infirmity of mind or body, to discharge the duties thereof, shall be entitled to receive such superannuation allowance as the said Commissioners of His Majesty's Treasury shall think proper to direct; and in ascertaining and awarding the amount of such superannuation allowance the said Commissioners shall take into consideration the whole period during which any such person shall have been permanently employed in any office or situation in either of the said Courts, or in any other

20.
Allowance to
Masters and
other Officers
on their
retirement
from Office.

4 & 5 W. 4.
c. 24.

public office or situation prior to the *passing of this Act*, and shall proceed according to the principles laid down by an Act passed in the fourth and fifth years of the reign of His present Majesty, intituled, "An Act to alter, amend and consolidate the Laws for regulating the Pensions, Compensations and Allowances to be made 5 to Persons in respect of their having held Civil Offices in His Majesty's Service;" and all such sums and allowances which shall be so awarded and granted under the authority aforesaid, shall be paid and payable and be charged and chargeable in the same way as is hereinbefore provided in respect of the salaries of the Masters, 10 Clerks and Messengers of the said Courts respectively, and the necessary expenses of the said offices.

21.

Masters empowered and required to tax Costs indiscriminately in the said Courts.

AND whereas it would tend to the despatch of business, and would assimilate the practice and promote uniformity in the allowance of Costs, if the Masters of the said Courts appointed or to be ap- 15 pointed under this Act were empowered to tax costs which have arisen or may arise in each of the said Courts indiscriminately; BE it therefore Enacted, That from and after the *First day of January One thousand eight hundred and Thirty-seven* the Masters of the said Courts appointed or to be appointed as aforesaid, are hereby 20 authorized, empowered and required, subject to such rules and orders as hereinafter mentioned, to tax all Bills of Costs indiscriminately which shall have arisen or which may arise in cases of a civil nature in any of the said Courts, or in the Court of Error in the Exchequer Chamber, although such Costs may not have arisen in respect of 25 business done in the Court to which such Masters may belong; and the Judges of the said Courts, or any *Eight* or more of them, of whom the chiefs of each of the said Courts, shall be Three, shall and they are hereby required, by any rule or order to be from time to time made either in term or vacation, to establish such regulations 30 as may be necessary for the purpose of enforcing uniformity of practice in the allowance of costs in the Common Law Courts, and of insuring as far as may be practicable an equal division of the business of taxation amongst the Masters of the said Courts; and such Judges shall appoint some convenient place in which the said business 35 of taxation shall be transacted for all the said Courts.

22.

Treasury empowered to grant Compensation to certain Persons for the loss of the sale of, and appointment to, Offices abolished by this Act.
Chap. 82.

AND whereas by an Act passed in the sixth year of the reign of his late Majesty King GEORGE the Fourth, intituled, "An Act to abolish the Sale of Offices in the Court of King's Bench in England, to make Provision for the Lord Chief Justice of the said Court, and to grant an additional Annuity to the said Lord Chief Justice on resignation of his 40 Office," it was declared, that the several offices of Clerk of the Rules on the Plea side, Clerk of the Papers on the Plea side, Clerk of the Declarations

Declarations, Clerk of the Common Bails, Estreats and Posteads, and Clerk of the Dockets, all in the Court of King's Bench, were in the gift of the Chief Clerk of the said Court, and were saleable by him; and also that the offices of the Clerks of the Inner and Outer Treasury, 5 Clerks of Nisi Prius in London and other cities, and on the several circuits, and Bagbearer on the Plea side also in the Court of King's Bench, were in the gift of the Custos Brevium of the said Court, and were saleable by him, and that it was expedient to abolish the sale of such Offices, without prejudice however to the rights of any of the 10 persons then holding the same, or having the right of appointment thereto: AND whereas by another Act passed in the sixth year of the reign of his said late Majesty King GEORGE the Fourth, intituled, "An Act to abolish the Sale of Offices in the Court of Common Pleas in England, to make Provision for the Lord Chief Justice of the said 15 Court, and to grant an additional Annuity to the said Lord Chief Justice on Resignation of his Office," it was declared, That the Offices of Second Prothonotary and Clerk of the Juries were appointed by the Lord Chief Justice on the nomination of the Custos Brevium, and that each of the three Prothonotaries of the said Court had the appointment of one Secondary, and such rights of appointments were continued to the persons then in possession of the said Offices of Custos 20 Brevium and Prothonotaries respectively: AND whereas the persons who were so respectively declared by the said recited Acts to be in possession of the right of sale, nomination or appointment in and to the several Offices mentioned in the said Acts, are still possessed of and have continued to exercise the said rights, and it is only just and reasonable that provision should be made for granting compensation upon equitable principles for all injury to or loss of the same; BE it further Enacted, That if, since the said Twenty-fourth day of May 25 One thousand eight hundred and Thirty, any party or parties shall in the exercise of any such right have been nominated or appointed to any office or offices so declared to be subject to such right, or if any such office shall be now vacant by death, or the party now holding any such office shall hereafter die, it shall and may be lawful for the person or persons 30 possessed as aforesaid of the right of sale, nomination or appointment in and to such office or offices respectively, or to whom but for this Act such right would have come by virtue of any interest now vested, or for the person or persons in whose favour any such right may have been exercised, to apply to the Lord High Treasurer or the Commissioners 35 of His Majesty's Treasury for compensation for the loss of the aforesaid right of sale, nomination or appointment in and to such office or offices respectively, or any injury affecting such office or offices, and in every such case the said Lord High Treasurer, or any Three of the Commissioners of His Majesty's Treasury shall forthwith examine into such application, by all and every such means as he or they shall think proper; and thereupon it shall and may be lawful for him or them, and 40 they

they are hereby required to order and direct, by warrant under his or their hands, that such annual or gross sum by way of Compensation shall be paid to or to the use of such person or persons, and at such time or times respectively as the said Lord High Treasurer or the said Commissioners of His Majesty's Treasury shall in his or their discretion 5
 deem just and equitable; and all such Compensations, whether annual or in gross, shall be issued and paid and payable (without any fee or deduction whatsoever) out of and be charged and chargeable upon the Consolidated Fund of the United Kingdom of Great Britain and Ireland: Provided always, That an account of all such Compensations 10
 shall, within Fourteen Days next after the same shall have been granted as aforesaid, be laid before the Commons' House of Parliament, if Parliament shall be then assembled, or if Parliament shall not be then assembled, then within Fourteen Days after the meeting of Parliament then next following: Provided also, That nothing herein 15
 contained abolishing the office of Custos Brevium in the Court of Common Pleas, shall extend or be construed to extend to alter or repeal or in any way to affect the provisions of an Act made and passed in the sixth year of the reign of his late Majesty King GEORGE the Fourth, intituled, "An Act to authorize the Purchase of the Office of Receiver 20
 and Comptroller of the Seal of the Courts of King's Bench and Common Pleas, and of Custos Brevium of the Court of Common Pleas," but that such Act shall continue in full force and effect, notwithstanding the abolition of the said last-mentioned office.

Chap. 89.

23.
 Treasury empowered to grant Compensation to certain Officers of the Court of Common Pleas who were in office prior to 24th May 1830.

AND whereas by the Act hereinbefore recited, passed in the eleventh 25
 year of the reign of King GEORGE the Fourth, and first year of the reign of His present Majesty, certain officers belonging to the Superior Courts of Common Law, who were appointed prior to the Twenty-fourth day of May One thousand eight hundred and Thirty, are entitled to receive Compensation for any loss thereafter sustained by them in their 30
 fees and emoluments in consequence of the amendments and alterations in the process, practice, pleadings and other proceedings of the said Courts: AND whereas by another Act passed in the first and second years of the reign of His present Majesty, to explain and amend the same Act, the Warden of the Fleet Prison was declared to be within the true intent and 35
 meaning of the said first-mentioned Statute, but no provision was made for the several persons holding the offices of Clerk of the Papers in the said Prison, and the Tipstaffs of the Court of Common Pleas; who were severally appointed to their offices by the said Warden prior to the said Twenty-fourth day of May One thousand eight hundred and 40
 Thirty: AND whereas the Clerk of the Papers at the King's Bench Prison, and the Tipstaffs of the Court of King's Bench, have been and now are compensated under the provisions of the said first-recited Act, and it is only just and reasonable that the same description of Officers in the Court of Common Pleas, whose duties and emoluments are similar
 in

in their nature to those attached to the Court of King's Bench, should be placed upon the same footing; BE it therefore Enacted, That the Commissioners of His Majesty's Treasury shall ascertain the gross and net annual value of the offices of the said Clerk of the Papers, at the Fleet Prison, and the Tipstiffs of the Court of Common Pleas respectively, according to a fair average of the lawful fees and emoluments of such offices for a period of Ten Years next preceding the Twenty-fourth day of May One thousand eight hundred and Thirty, or such other average of years as the said Commissioners may think proper; and according to the same rules and principles as were adopted by the Commissioners in ascertaining the value of other offices in the Superior Courts of Common Law under the provisions of the said recited Acts, and in case the net amount of the fees and emoluments actually received by either of the said Officers has in any year, since the said Twenty-fourth day of May One thousand eight hundred and Thirty, fallen short or shall hereafter fall short of the net annual value of their offices as aforesaid, every such Officer shall be entitled to receive from and after the said Twenty-fourth day of May, and so long as he or they shall continue in office, from the Lord High Treasurer or Commissioners of His Majesty's Treasury, the full amount of the difference between the net sum actually received by such Officer and the net value of his office; and the amount so to be paid shall be charged and chargeable and be paid and payable out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, in the same way as other Officers belonging to the Superior Courts of Common Law are now paid; and in case the net amount of the lawful fees and emoluments actually received by either of the said Officers in any year since the said Twenty-fourth day of May has exceeded or shall hereafter exceed the net annual value of their offices ascertained as aforesaid, the surplus shall be paid into the receipt of the Exchequer, to the credit of the Consolidated Fund, at such times and in such manner as the said Commissioners of His Majesty's Treasury shall think proper to direct.

And be it further Enacted, That the provisions and powers contained in the before-recited Act passed in the eleventh year of the reign of King GEORGE the Fourth and the first year of the reign of His present Majesty, intituled, "An Act for regulating the Receipt and future Appropriation of Fees and Emoluments receivable by Officers of the Superior Courts of Common Law," shall, so far as the same is applicable, extend to all cases in which any office shall be abolished by the authority of this or any subsequent Act, and the person, his heirs, executors or administrators, who in case such office were not abolished would under the provisions of the last-recited Act have been entitled to receive the difference between the net amount of the fees and emoluments which would have become due in such office and the certified value thereof, or who under that Act and any other Act or Acts of Parlia-

24.
Persons whose offices are abolished to receive full Amount of Compensation under 11 G. 4. & 1 W. 4. c. 58. until the Treasury shall otherwise determine under the provision of that Act.

ment relating to his office or situation would have been entitled to receive any compensation, salary or official income, shall be entitled, from the time of the abolition of such office, to receive the full amount of such certified value, compensation, salary or official income in four equal quarterly payments, on the fifth days of April, July and January, and the tenth day of October in each year, to be paid and payable out of the Consolidated Fund of the United Kingdom, without any fee or deduction whatsoever, until such other arrangement for his compensation, in consequence of such person being by the abolition of his office relieved from further duties, attendance and responsibility, shall have been made under the powers and provisions of the said recited Act; and when such other arrangement shall have been so made, the annual sum which shall be thereby fixed and appointed for such abolished office shall be in like manner a charge upon and shall be paid out of the said Consolidated Fund, without any fee or deduction whatever, by such equal quarterly payments as last aforesaid, together with a proportional part of such annual sum for the time which at the decease of the person entitled thereto shall have elapsed since the last payment thereof.

25.
Clerk of the Warrants in Court of Common Pleas, and Master or Secondary of the Court of King's Bench, continued in the Office of Registers of Deeds in Middlesex, notwithstanding the abolition of their Offices in the Courts at Law.

AND whereas by an Act passed in the seventh year of the reign of her late Majesty Queen ANNE, intituled, "An Act for the public Registering of Deeds, Conveyances, and Wills, and other Incumbrances, which shall be made of or shall affect any Honors, Manors, Lands, Tenements or Hereditaments within the County of Middlesex, after the Twenty-ninth day of September One Thousand Seven Hundred and Nine," and by another Act passed in the twenty-fifth year of the reign of His present Majesty King GEORGE the Second, intituled, "An Act for appointing the Deputy or Secondary of the Chief Clerk to enrol Pleas in the King's Bench, called the Master of the King's Bench Office, one of the Registers or Masters for the Inrolment of Deeds, Wills and other Conveyances in the County of Middlesex, in the Place and Stead of such Chief Clerk," it is provided, that the Clerk of the Warrants in the Court of Common Pleas, and the Master or Secondary of the Court of King's Bench, for the time being, shall be two of the Officers for executing the duties of Registers and Masters for the matters and things in the said first-recited Act contained: AND whereas the said Offices of Clerk of the Warrants in the Court of Common Pleas, and the Master or Secondary of the Court of King's Bench, will be abolished by this Act, and doubts may arise whether those Officers can any longer continue legally to execute the duties of such Registers and Masters as aforesaid; BE it therefore Enacted, That nothing in this Act contained shall extend, or be construed to extend, to abolish the office of Registers or Masters for the inrolment of Deeds, Wills, and other Conveyances in the county of Middlesex, or for any other matters or things in the said first-

first-recited Act contained, or to deprive any of the persons now holding such office of Registers or Masters of that office, and that such persons shall and may henceforth, and until otherwise provided for by law, continue to hold and enjoy such office, and execute all the powers and duties appertaining thereto, in the same manner to all intents and purposes as if this Act had not been passed; and if the Clerk of the Warrants in the Court of Common Pleas, or the Master or Secondary of the Court of King's Bench, abolished by this Act, and who now hold the office of such Registers or Masters as aforesaid, shall die or resign, or otherwise be discharged from the office of Registers or Masters, it shall be lawful for the Lords Chief Justices of the Courts of King's Bench and Common Pleas for the time being, until otherwise directed by Parliament, to nominate and appoint some fit and proper person to fill the office of such Register or Master, such person being a Barrister or being an Attorney in any one of the Superior Courts of Common Law at Westminster, in actual practice, of not less than *Five Years'* standing on the Rolls of such Court, in the place or stead of the person so dying, resigning, or being discharged from such office; and the person so nominated and appointed by the Lords Chief Justices as aforesaid shall, previously to his entering upon or executing such office, take such oath or oaths, and afterwards execute such office, and the powers and duties appertaining thereto, in the same manner to all intents and purposes as the persons executing the same would by law be required and authorized to take and execute if this Act had not been passed.

And be it further Enacted, That this Act may be amended, altered, or repealed during the present Session.

26.
Act may be
altered this
Session.

SCHEDULES

To which the foregoing ACT refers.

SCHEDULE (A.)

OFFICES abolished by this ACT from and after the day of
One thousand eight hundred and Thirty-seven.

On the Plea Side of the Court of King's Bench :

The Office of the Chief Clerk.

Secondary or Master of the King's Bench Office.

Clerk of the Rules.

Clerk of the Papers.

Clerk of the Docquets and Judgments.

Signer of the Writs.

Clerk of the Declarations.

Clerk of the Common Bails or Appearances.

Estreats and Posteads.

Custos Brevium et Recordorum.

Clerk of the Inner and Upper Treasuries.

Clerk of the Outer Treasury.

*Clerks of the Nisi Prius for London, Middlesex, and
the several Circuits in England and Wales.*

Bagbearer to the Custos Brevium.

Clerk of the Errors.

Filacer, Exigenter and Clerk of the Outlawries.

In the Court of Common Pleas :

The Office of the Custos Brevium.

Prothonotaries.

Secondaries.

Clerk of the Judgments.

Clerk of the Reversals of Outlawries.

Clerk of the Docquets.

Clerk of the Warrants, Enrolments and Estreats.

Clerk of the Essoigns.

Clerk of the Treasury.

Clerk of the Jurata.

Treasury

Treasury Keeper.
Clerk of the Juries.
Clerk of the Errors.
Filacers for the several Counties, Cities and Towns in
England and Wales.
Exigenter and Clerk of the Supersedeas.
Clerk of the Outlawries.

On the Plea Side of the Court of Exchequer:

The Office of the Masters and Prothonotaries.

Clerk of the Rules.
Filacer.
Clerk of the Errors.
Clerk of the Pleas.

SCHEDULE (B.)

PERSONS appointed by this ACT as the MASTERS of the SUPERIOR
 COURTS of COMMON LAW.

The Five Masters on the Plea Side of the Court of King's Bench;
 namely,—

Thomas Le Blanc, Esquire.
Fortunatus Dwarrris, Esquire.
Sir Archer Denman Croft, Baronet.
Richard Goodrich, Esquire.
James Bunce, Esquire.

The Five Masters of the Court of Common Pleas; namely,—

Henry Belward Ray, Esquire.
Alexander Atherton Park, Esquire.
John Henry Cancellor, Esquire.
Edward Griffiths, Esquire.
Edward Robert Porter, Esquire.

The Five Masters on the Plea Side of the Court of Exchequer;
 namely,—

Thomas Dax, Esquire.
Kenrick Collett, Esquire.
Edmund Walker, Esquire.
Stephen Richards, Esquire.
George Chilton, Esquire.

Common Law Courts.

A

B I L L

To abolish certain Offices in the Superior
Courts of Common Law, and to make
Provision for a more effective and uniform
Establishment of Officers in those Courts.

(Prepared and brought in by
Mr. Serjeant Goulburn, Mr. Freshfield
and Mr. Aglionby.)

Ordered, by The House of Commons, to be Printed,
3 February 1837.



A

B I L L

[AS AMENDED BY THE COMMITTEE]

To abolish certain Offices in the Superior Courts of Common Law, and to make Provision for a more effective and uniform Establishment of Officers in those Courts.

N.B.—*The Clauses marked (A.) and (B.) were added by the Committee.*

WHEREAS in His Majesty's Superior Courts of Common Law at *Westminster* there are many Officers whose duties have wholly or in part ceased, or are executed by deputy, and whose offices have become by changes in the law useless, and inapplicable to the present practice and proceedings in those Courts; though the Fees in such offices continue payable by the Suitors as heretofore: And whereas by an Act passed in the eleventh year of the reign of King GEORGE the Fourth, and the first year of the reign of His present Majesty, intituled, "An Act for regulating the Receipt and future Appropriation of Fees and Emoluments receivable by Officers of the Superior Courts of Common Law," the net annual value of certain of such offices has been ascertained, and the persons who were the holders thereof prior to the Twenty-fourth day of May One thousand eight hundred and Thirty are compensated in manner and form by that Statute pointed out: And whereas the continuance of sinecure and useless offices tends to impair the effective administration of justice, and to cast upon the public and the suitors in those Courts unnecessary burthens and costs; and it is expedient to abolish the said Offices, and to make provision for a more uniform and effective establishment of Officers in each of the Superior Courts of Common Law; **BE it therefore Enacted**, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the First day of July One thousand eight hundred and Thirty-

Preamble.

11 G. 4. and
1 W. 1. 58.

1.
Certain
Offices in
the Courts
of King's

Bench, Common Pleas, and Exchequer abolished.

seven, the Offices mentioned in the Schedule to this Act annexed, marked (A.), on the Plea Side of the Courts of King's Bench and Exchequer, and in the Court of Common Pleas, shall be and the same are hereby abolished.

2.
Clerk of Errors in the Court of Exchequer Chamber abolished.

AND whereas the duties of the Clerk of Errors in the Court of Exchequer Chamber are so much diminished as to render it inexpedient any longer to continue a separate Office for the performance thereof; BE it further Enacted, That from and after the First day of July One thousand eight hundred and Thirty-seven, the said office of Clerk of the Errors in the Court of Exchequer Chamber shall be and the same is hereby abolished; and all acts, duties and services now and heretofore done, performed and rendered by the said officer shall continue to be done, performed and rendered by the Masters of the respective Courts from which Error is brought, or any one or more of them; and such acts, duties and services when so done, performed and rendered by the said Masters, or their successors, or any one or more of them, shall be good and valid in law to all intents and purposes; and all lawful powers and authorities now and heretofore vested in or exercised by the said Clerk of Errors in the Court of Exchequer Chamber, by virtue or in right of his office, shall be exercised by the said Masters, or any one or more of them.

3.
Certain Persons appointed as Masters or Principal Officers of the said Courts, in lieu of the Officers abolished.

And be it further Enacted, That from and after the said First day of July One thousand eight hundred and Thirty-seven there shall be in each of the said Courts respectively, to conduct the civil business thereof, Five principal Officers, and no more, to be called respectively the Masters of each of the said Courts; and the persons mentioned in the Schedule to this Act annexed, marked (B.), shall be and the same are hereby appointed and declared to be such Masters in each of the said Courts respectively.

4.
Henry Belward Ray, esq. to be First Master of the Common Pleas.

Provided always, and it is hereby further Declared and Enacted, That *Henry Belward Ray*, Esquire, shall hold and enjoy the said appointment or office of First Master of the Court of Common Pleas during the same term, and with and under and subject to the same estate, title and tenure as he heretofore held the office of Prothonotary of the Court of Common Pleas, and with all and every the incidents, rights, powers, authorities and privileges which heretofore belonged, were attached or incident to the said office, except so far as is specifically enacted by this Act, or so far as such rights, powers, authorities or privileges may be incompatible or inconsistent with the enactments herein contained, or any of the duties or obligations hereby imposed.

And

And be it further Enacted, That from and after the said First day of July One thousand eight hundred and Thirty-seven all acts, duties and services now and heretofore done, performed and rendered by the said officers abolished by this Act, or any of them, in their respective Offices in the said Courts, shall continue to be done, performed and rendered by the Masters hereby appointed in each of those Courts, or their successors, or any one or more of them; and such acts, duties and services, when so done, performed and rendered by the said Masters, or their successors, or any one or more of them, shall be good and valid in law, to all intents and purposes; and all lawful powers and authorities now and heretofore vested in or exercised by the officers so abolished as aforesaid, or any of them, by virtue or in right of any office by them held in either of the said Courts, shall be and the same are hereby vested in and shall be exercised by the Masters of those Courts respectively, or by any one or more of them.

15. Masters of the said Courts to perform all the duties, and exercise all the powers and authorities of the Officers abolished by this Act.

AND whereas it is expedient that a new Table or Tables of the Fees proper to be taken in the Superior Courts of Common Law at *Westminster*, should be prepared with reference to the various changes and alterations which have taken place in the process, practice and proceedings of those Courts, and to the diminution of expense, where practicable, to the Suitors: AND whereas by an Act passed in the third year of the reign of King GEORGE the Fourth, intituled, "An Act to enable the Judges of the several Courts of Record at *Westminster* to make Regulations respecting the Fees of the Officers, Clerks and Ministers of the said Courts," it was enacted, that it should be lawful for any Three or more of the Judges of the Courts of King's Bench, Common Pleas, Exchequer and Exchequer Chamber respectively, to establish and ordain, by their discretion, Tables of Fees to be thereafter taken by the several Officers, Clerks and Ministers of the same respective Courts, and by the Clerks and Officers of the Judges thereof respectively; and that the Fees so established and ordained should be deemed and taken to be the lawful Fees of such Officers, Clerks and Ministers respectively:" AND whereas, owing to the numerous and important duties and avocations of the said Judges, no such regulations respecting Fees have yet been or are likely to be made, but the ancient and unsuitable Fees still continue to be taken from the Suitors in the said Courts; BE it further Enacted, That it shall and may be lawful for the Commissioners of His Majesty's Treasury, and they are hereby required to direct and instruct the Commissioners appointed under the before recited Act, passed in the eleventh year of the reign of King GEORGE the Fourth and the first of His present Majesty, or such of them as they may think proper, forthwith to prepare and draw up a Table or Tables of the Fees proper to be demanded, and taken in the Superior Courts of Common Law, to be

6. Commissioners of His Majesty's Treasury empowered to direct drawing up Table of Fees.

laid for their approval before the Judges of the said Courts; and the said Judges are hereby empowered and required, on or before the said First day of July One thousand eight hundred and Thirty-seven, to revise the said Table or Tables of Fees so prepared as aforesaid and to add to, or reduce, alter or amend the same as they may deem necessary and proper; and the said Table or Tables of Fees so revised and corrected as aforesaid to allow and sanction, by affixing their signatures respectively thereto, and to establish the same in and for the said Courts; which Tables of Fees shall be entered or enrolled in the public Books or Records of the Courts to which they respectively relate, in such manner as the Judges of the said Courts shall think fit; and the Fees so established and ordained, and no other shall, from and after the said First day of July One thousand eight hundred and Thirty-seven, be deemed and taken to be the lawful Fees to be thenceforth demanded, received and taken in the said Courts respectively.

7.
Records, &c.
of abolished
Offices trans-
ferred to the
Masters, and
Searches may
be made and
Copies taken
as heretofore.

And be it further Enacted, That all the Records, Books, Papers, and Documents of and concerning the duties and business of the several Offices of the Courts of King's Bench, Common Pleas and Exchequer, so abolished as aforesaid, shall, on or before the said First day of July One thousand eight hundred and Thirty-seven, be delivered by the several officers of the said Courts respectively, now having the custody of the same, into the custody and possession of the Masters of the said Courts respectively appointed or to be appointed under or by virtue of this Act, to be by them kept and preserved; and searches may be made, and copies or extracts of and from the said Records, Books, Papers and Documents shall and may be had and taken, at such times and in such manner as hath been the accustomed practice in the several Offices hereby abolished; and all such copies or extracts signed and authenticated by one or more of the said Masters of the said Courts respectively shall be as available in evidence and as valid and effectual to all intents and purposes as if the same had been signed, authenticated and given by the Officers whose offices are hereby abolished, or any of them, subject nevertheless to such rules, orders and regulations as the said Courts shall or may from time to time make or ordain in respect of the same.

8.
Certain Offi-
cers whose
Offices are
abolished, to
pay over to
Masters under this Act
all balances
in their
hands of
Suitors'
Money to be

And be it further Enacted, That the Chief Clerk of the Court of King's Bench, the Prothonotaries of the Court of Common Pleas, and the Masters and Prothonotaries of the Court of Exchequer, whose Offices are abolished by this Act, shall and they are hereby required, on or before the said First day of July One thousand eight hundred and Thirty-seven, to pay over to the Masters of the said Courts respectively appointed by this Act all and every sum and sums of money

money which shall at any time theretofore have been paid into the said respective Courts by or on behalf of Suitors, to abide the event of any suit, or for any purpose whatsoever, and which shall then remain unclaimed and undisposed of in the hands and possession of the said Chief Clerk of the Court of King's Bench, or the said Prothonotaries of the Court of Common Pleas, or the said Masters and Prothonotaries of the Court of Exchequer; and the said last-mentioned officers respectively shall and they are hereby required, at the time of their paying over the said monies to the Masters of the said Courts respectively as aforesaid, to render to such Masters an account thereof, showing the precise amount paid into Court in each action, the names of the Plaintiff and Defendant, and of their Attornies, and the time when, and by whom, and the purpose, so far as the same can be ascertained, for which the said amount was so paid in, which account the said Masters shall cause to be entered in books to be kept in their offices respectively for that purpose; and the Masters of the said Courts respectively shall and they are hereby required, immediately after the receipt of such sum or sums of money, to pay the same into the Bank of *England* to an account to be opened by the Masters of the said Courts respectively in the books of the Governor and Company of that Bank, to be called the "Account of the Suitors' Fund of the Court of King's Bench, Common Pleas, or Exchequer," as the case may be, which accounts respectively the Governor and Company of the Bank of *England* are hereby authorized and required to open in their books accordingly.

by such Master paid into the Bank of England.

And be it further Enacted, That from and after the said first day of July One thousand eight hundred and Thirty-seven the Masters of the said Courts respectively shall cause all and every sum or sums of money paid into the said Courts by or on the behalf of the Suitors in either of those Courts, to abide the event of the suit, or for any other purpose whatsoever, to be entered in proper books to be kept for that purpose, and shall, as soon as conveniently may be, pay all and every such sum or sums of money into the Bank of *England* to the credit of their respective accounts of the Suitors' Fund to be opened as aforesaid; and the Masters of the said Courts respectively, or any Two or more of them, shall and they are hereby authorized and required to draw on the said Governor and Company of the Bank of *England* for any sum or sums of money so paid in as aforesaid, at the commencement of this Act or afterwards, which the Masters of the said Courts respectively may require for the purposes of any suit pending in their respective Courts; and the said Governor and Company of the Bank of *England* are hereby authorized and required to pay all such sums of money as may be so drawn for by any order signed by the Masters of the said Courts respectively, or any Two or more of them.

9.
All Monies deposited in Court by Suitors at or after the commencement of this Act to be paid into the Bank of England, and drawn out by the order of Two or more of the Masters of each Court.

10.
Future Masters to be appointed by the Lord Chief Justices or the Lord Chief Baron of the said Courts respectively.

And be it further Enacted, That when and so often as any vacancy shall occur in any of the said offices of Master in either of the said Superior Courts of Common Law, by death, resignation or otherwise, it shall and may be lawful for the Lord Chief Justice or Lord Chief Baron of the Court in which such vacancy shall occur, to nominate and appoint some fit and proper person to fill such vacant office, such person being a Barrister in actual practice of not less than Five years' standing at the Bar, or who shall have practised as a Pleader for not less than Five years, or an admitted Attorney in all or any one of those Courts in actual practice of not less than Five years' standing on the Rolls of such Court, or who shall have served as Officers or Clerks in either of the said Offices hereby abolished, or as Clerks in either of the offices of the said Masters, or as both, for not less than Five years in the whole: Provided always, That nothing herein contained shall extend, or be construed to extend, to affect the rights of appointment of certain of the Masters on the Plea Side of the Court of Exchequer, now vested in *William Stewart Rose*, Esquire, under and by virtue of an Act passed in the second and third years of the reign of His present Majesty, intituled, "An Act for the better Regulation of the Duties to be performed by the Officers on the Plea Side of the Court of Exchequer."

2 & 3 W. 4.
c. 110.

11.
The necessary Clerks and Messengers in the Masters' Office to be appointed by the Masters, the number to be fixed by the Lord Chief Justices or Lord Chief Baron of the said Courts respectively, a preference being given to those persons who are now employed in the said Courts.

And be it further Enacted, That from and after the said First day of July One thousand eight hundred and Thirty-seven the Masters of each of the said Courts hereby appointed, and their successors, shall and may, in and for the discharge of the duties of their offices, have so many Clerks and Messengers as the Lord Chief Justice or Lord Chief Baron of the Court for the time being to which such Masters respectively belong, shall determine to be necessary and proper; and all such Clerks and Messengers shall and may be appointed by the majority of the Masters of the said Courts respectively, with the sanction and approval of the Lord Chief Justice or Lord Chief Baron of the Court to which such Masters shall belong: Provided always, That so many of the persons who now hold any office abolished by this Act, or are now employed therein, as may be needful, shall be appointed as such Clerks and Messengers, if they shall be found willing and competent to execute the duties required of them, in preference to any persons who shall not have held such abolished offices, or been so employed prior to the passing of this Act.

12.
Appointments to be made without any pecuniary consideration, the Masters during good behaviour, and the Clerks and Messengers during pleasure.

And be it further Enacted, That all such appointments of Masters, Clerks or Messengers to be made by virtue of this Act, shall be so made by the Lord Chief Justice or Lord Chief Baron, or by the Masters of the said Courts respectively, without any pecuniary or other consideration whatsoever, directly or indirectly, to be paid or received for the same; and the persons appointed or to be appointed as such Masters, by virtue of this Act, shall hold their offices during the

the good behaviour of the persons so appointed ; and the persons to be appointed by virtue of this Act as such Clerks and Messengers, shall hold their offices or situations during pleasure ; and all such Masters, Clerks and Messengers shall execute their duties in person, and shall give their attendance in Court or elsewhere, and shall conduct the business of their several Departments or Offices at such places and hours, whether in term time or vacation, and in every respect in such manner as the Lord Chief Justice or the Lord Chief Baron and the other Justices and Barons of the said Courts respectively shall from time to time order and direct.

Provided always, and be it further Enacted, That if either of the said Masters shall, from sickness or other unavoidable cause, have occasion to be absent from the business of his office for a longer period than Two Months at any one time, then and in every such case it shall and may be lawful for the Lord Chief Justice or Lord Chief Baron for the time being, of the Court to which such Master shall belong, to give leave of absence, by his order in writing, to such officer, and, if necessary, to appoint a Deputy in his place during such time as shall be expressed in such order, and the name of such Deputy, and also the cause and time of such absence shall be stated in such order ; and such Deputy may, if occasion require it, be changed by the Lord Chief Justice or Lord Chief Baron ; and every Deputy so appointed shall be paid by the principal for whom he shall act, such remuneration for his services as the said Lord Chief Justice or Lord Chief Baron shall direct in such order, not being in any case less than One-third of the amount hereinafter fixed and settled as the salary of the Office of a Master of the said Courts respectively.

13.
In case of sickness or other reasonable cause, the duties of the Masters may be performed by Deputy.

And be it further Enacted, That no person holding such office of Master in any of the said Superior Courts, or being a Clerk or Messenger in any of the said Masters' Offices, shall either directly or indirectly act as a Barrister, Attorney or Solicitor, or as Agent of any Attorney or Solicitor, in any Court of Law or Equity in the United Kingdom, either separately or in partnership with any other, during such time as he shall hold such office of Master, or act as such Clerk or Messenger : Provided always, That nothing in this Act contained shall operate to prevent any Attorney or Solicitor, or Agent of any Attorney or Solicitor, now practising in any Court of Law or Equity, and employed in any office abolished by this Act, and who may be appointed to act as Clerk or Messenger under this Act, from continuing to practise as such Attorney, Solicitor or Agent, notwithstanding such appointment.

14.
Masters, Clerks and Messengers not to act as Barristers, Attornies or Agents.

And be it further Enacted, That the Masters of the said Courts of King's Bench, Common Pleas and Exchequer respectively, shall

15.
Salaries of the Masters fixed.

receive, by way of salary, for performing the duties of their respective offices, the sum of One thousand two hundred Pounds per annum each, to commence and be computed from the first day of July One thousand eight hundred and Thirty-seven and to be paid and be payable, quarterly; namely, on the Thirty-first day of March, the Thirtieth day of June, the Thirtieth day of September and the Thirty-first day of December in every year, together with a proportional part of such annual sum for the term which at the decease of the person entitled thereto shall have elapsed since the last payment thereof : Provided always, That those persons appointed by this Act, or who may be hereafter appointed as such Masters, and who are now entitled to and are in the receipt of compensation allowance awarded to them under the provisions of an Act passed in the eleventh year of the reign of King GEORGE the Fourth, and the first year of the reign of His present Majesty, intituled, " An Act for regulating the Receipt and future Appropriation of Fees and Emoluments receivable by Officers of the Superior Courts of Common Law," exceeding the Salary of One thousand two hundred Pounds per annum, shall continue to receive the full amount of such compensation allowance by way of Salary so long as they shall respectively hold the office of Master as aforesaid; and in cases wherein the compensation allowance under the said Act is less than the salary hereby granted to the Masters of the said Courts respectively, such compensation allowance shall merge and be considered as part of and included in the said salary of One thousand two hundred Pounds per annum: Provided always, That nothing herein contained shall extend, or be construed to extend, to deprive *Stephen Richards, Kenrick Collett, Thomas Dax, Edmund Walker, and George Chilton, Esquires*, the present principal officers on the Plea side of the Court of Exchequer, of the amount of official income and salary which they are now in the receipt of respectively, so long as they shall hold the office of Masters under this Act, but that the said persons shall continue in the enjoyment of the same official income by way of salary which they now respectively receive during all the time they respectively hold such offices of Masters under this Act.

11 G. 4. &
1 W. 4. c. 58.

16.
Salaries of
necessary
Clerks and
Messengers
to be fixed by
the Lord
Chief Justices
or Lord Chief
Baron of the
Courts re-
spectively,
and the Lords
of the Treas-
ury.

And be it further Enacted, That the Clerks and Messengers who shall be appointed as hereinbefore directed to discharge the duties of the offices of the Masters of the said Courts respectively shall receive by way of salary for the performances of the said duties such annual sum as the Lord Chief Justice or the Lord Chief Baron of the said Courts respectively and the Commissioners of His Majesty's Treasury shall from time to time fix and determine, and such Salaries shall commence and be computed from the said First day of July One thousand eight hundred and Thirty-seven, and shall be paid and payable quarterly, namely, on the Thirty-first day of March, the

Thirtieth

Thirtieth day of June, the Thirtieth day of September, and the Thirty-first day of December in every year, together with a proportional part of such annual sum for the time which at the decease of the person entitled thereto shall have elapsed since the last payment thereof: Provided always, That if any of the persons appointed as Clerks or Messengers under the provisions of this Act shall be entitled to and in the receipt of compensation allowance awarded to them under the hereinbefore recited Act, which shall exceed the amount of salary fixed and determined as aforesaid, such persons shall be entitled to and shall receive the full amount of such compensation allowance by way of salary so long as they shall respectively hold their offices or situations under this Act; and in cases wherein such compensation allowance shall be less than the amount of salary so fixed and determined, the same shall merge and be considered as part of and included in the said salary.

And be it further Enacted, That the Salaries and Compensation Allowances by way of Salary hereinbefore granted to the several Masters of the said Courts respectively, and also the Salaries and Compensation Allowances by way of Salary which shall and may be granted to the several Clerks and Messengers in the offices of the Masters under the provisions of this Act, together with the necessary and unavoidable expenses of the said offices respectively, shall be paid and payable out of and be charged and chargeable upon the Fees received by the Masters in the said Courts respectively; and the surplus of such Fees arising in each of the said Courts, after the payment of the said Salaries and expenses, shall be paid into the receipt of the Exchequer to the credit of the Consolidated Fund of the United Kingdom of *Great Britain and Ireland*, at such times and in such manner as the Commissioners of His Majesty's Treasury for the time being shall think proper to direct; and in the event of the Fees so received by the Masters of any one of the said Courts being at any time insufficient to defray the said Salaries and other necessary expenses, it shall be lawful for the said Commissioners of His Majesty's Treasury, or any Three or more of them, and they are hereby authorized and required, to direct the amount of such deficiency to be charged upon and paid out of the said Consolidated Fund.

17.
Salaries of Masters, &c. and Expenses of Offices to be paid out of the Fees, if sufficient, but if not, deficiency to be charged upon the Consolidated Fund, and surplus of Fees to be paid into that Fund.

And be it further Enacted, That if any Master of the said Courts respectively appointed or to be appointed under or by virtue of this Act, or any person whatever employed in the offices of the said Masters, shall, for any thing done or pretended to be done relating to his office or employment, or under colour of doing any thing relating to his office or employment, or for forbearing to do any act properly appertaining to his said office, demand, take, receive, or accept, or allow any person whatsoever to take for him or on his

18.
Masters, Clerks and Messengers not to take Gratuities, on pain of dismissal.

account, or for or on account of or in trust for him or any other person named by him, any gratuity, perquisite or reward, or any thing of value, other than the lawful fees and emoluments hereinbefore directed to be taken and received and accounted for as aforesaid, or other than the salary or remuneration allowed or to be allowed to every such Master or person aforesaid, it shall be lawful for the said Lord Chief Justice or Lord Chief Baron of the Court to which such Master or person shall belong, and he is hereby empowered and required, upon his being satisfied that the person charged is guilty of so offending, to remove him from his office or employment; and the person so removed shall be and is hereby rendered incapable for ever thereafter of holding any office, situation or employment in the said Courts respectively, or of otherwise serving His Majesty, His heirs or successors, in any manner whatsoever.

19.
Masters to
keep Books
of Account,
and render
Accounts
quarterly to
Treasury.

And be it further Enacted, That the Masters of the said Courts respectively shall cause all fees received by them, and all disbursements made thereout for salaries and other necessary expenses, to be duly and regularly entered in one or more books to be kept for that purpose in their offices, distinguishing the Fees received under their several heads, and also the particulars and amount of every disbursement, and shall quarterly, within One Month after the Thirty-first day of March, the Thirtieth day of June, the Thirtieth day of September, and the Thirty-first day of December in every year, render a true and faithful account in writing to the Commissioners of His Majesty's Treasury for the time being of all such Fees and Disbursements, in such form of account, and with such particulars of receipt or otherwise, and accompanied by such vouchers as the said Commissioners shall from time to time think proper to require and direct; and if upon the examination of any such Account it shall appear to the said Commissioners that any Fees have not been duly accounted for, or that any unreasonable or improper charge or deduction has been made in such Account, it shall be lawful for the said Commissioners finally to settle and adjust the same in such way as they may think reasonable and proper, and the Masters of the said Courts by whom such Account shall have been rendered shall and they are hereby required to alter and amend the said Account accordingly: Provided always, That the Masters of the said Courts respectively shall submit their Books of Account to the inspection of the said Commissioners of His Majesty's Treasury, or any person or persons whom they may employ for that purpose, whenever the said Masters shall be required so to do.

20.
Allowance to
Masters and
other Officers

And be it further Enacted, That every person appointed or to be appointed under the provisions of this Act as a Master of the said Courts

Courts respectively, or as a Clerk or Messenger in the Offices of any of such Masters, and who was entitled to and has received compensation or salary in respect of the office formerly held by him under the Act hereinbefore mentioned, passed in the eleventh year of the reign of King GEORGE the Fourth, and the first year of the reign of His present Majesty, or under that Act and any other Act or Acts of Parliament, regulating or relating to his office or situation, who shall hereafter resign his office or situation, with the sanction and under the authority of the Lord Chief Justice or Lord Chief Baron of the Court to which he shall belong, shall be entitled to receive, during his life, such annual sum as the Commissioners of His Majesty's Treasury shall think proper to fix and appoint, not exceeding in any case the net annual value of the office or situation formerly held by him, and not being less in any case than Three-fourths thereof, provided that such annual sum shall exceed the superannuation allowance to be ascertained as hereinafter mentioned; and every person appointed or to be appointed to any situation as aforesaid under this Act, where such annual sum shall amount to a less sum than the superannuation allowance to be ascertained as hereinafter mentioned, or who was not entitled to and has not received compensation in respect of any former office held by him under the provisions of the said Act, and who shall hereafter resign his office or situation with the sanction and under the authority of the Lord Chief Justice or Lord Chief Baron of the Court to which he shall belong, in consequence of his being incapable, from infirmity of mind or body, to discharge the duties thereof, shall be entitled to receive such superannuation allowance as the said Commissioners of His Majesty's Treasury shall think proper to direct; and in ascertaining and awarding the amount of such superannuation allowance the said Commissioners shall take into consideration the whole period during which any such person shall have been permanently employed in any office or situation in either of the said Courts, or in any other public office or situation prior to the passing of this Act, and shall proceed according to the principles laid down by an Act passed in the fourth and fifth years of the reign of His present Majesty, intituled, "An Act to alter, amend and consolidate the Laws for regulating the Pensions, Compensations and Allowances to be made to Persons in respect of their having held Civil Offices in His Majesty's Service;" and all such sums and allowances which shall be so awarded and granted under the authority aforesaid, shall be paid and payable and be charged and chargeable in the same way as is hereinbefore provided in respect of the salaries of the Masters, Clerks and Messengers of the said Courts respectively, and the necessary expenses of the said offices.

on their
retirement
from Office.

4 & 5 W. 4.
c. 24.

21.

Masters empowered and required to tax Costs indiscriminately in the said Courts.

AND whereas it would tend to the despatch of business; and would assimilate the practice and promote uniformity in the allowance of Costs, if the Masters of the said Courts appointed or to be appointed under this Act were empowered to tax costs which have arisen or may arise in each of the said Courts indiscriminately; BE it therefore Enacted, That from and after the First day of July One thousand eight hundred and Thirty-seven, the Masters of the said Courts appointed or to be appointed as aforesaid, are hereby authorized, empowered and required, subject to such rules and orders as hereinafter mentioned, to tax all Bills of Costs indiscriminately which shall have arisen or which may arise in cases of a civil nature in any of the said Courts, or in the Court of Error in the Exchequer Chamber, although such Costs may not have arisen in respect of business done in the Court to which such Masters may belong; and the Judges of the said Courts, or any Eight or more of them, of whom the chiefs of each of the said Courts, shall be Three, shall and they are hereby required, by any rule or order to be from time to time made either in term or vacation, to establish such regulations as may be necessary for the purpose of enforcing uniformity of practice in the allowance of costs in the Common Law Courts, and of insuring as far as may be practicable an equal division of the business of taxation amongst the Masters of the said Courts; and such Judges shall appoint some convenient place in which the said business of taxation shall be transacted for all the said Courts.

22.

Treasury empowered to grant Compensation to certain Persons for the loss of the sale of, and appointment to, Offices abolished by this Act. Chap. 82.

AND whereas by an an Act passed in the sixth year of the reign of his late Majesty King GEORGE the Fourth, intituled, "An Act to abolish the Sale of Offices in the Court of King's Bench in *England*, to make provision for the Lord Chief Justice of the said Court, and to grant an additional Annuity to the said Lord Chief Justice on resignation of his Office," it was declared, that the several offices of Clerk of the Rules on the Plea side, Clerk of the Papers on the Plea side, Clerk of the Declarations, Clerk of the Common Bails, Estreats and Postes, and Clerk of the Dockets, all in the Court of King's Bench, were in the gift of the Chief Clerk of the said Court; and were deemed to be saleable by him; and also that the offices of the Clerks or the Inner and outer Treasury, Clerks of Nisi Prius in *London* and other cities, and on the several circuits, and Bagbearer on the Plea side, also in the Court of King's Bench, were in the gift of the Custos Brevium of the said Court, and were deemed to be saleable by him, and that it was expedient to abolish the sale of such Offices, without prejudice however to the rights of any of the persons then holding the same, or having the right of appointment thereto: AND whereas by another Act passed in the sixth year of the reign of his said late Majesty King GEORGE the Fourth, intituled, "An Act to abolish the Sale of Offices in the Court of Common Pleas in *England*, to make

make Provision for the Lord Chief Justice of the said Court, and to grant an additional Annuity to the said Lord Chief Justice on Resignation of his Office," it was declared, that the Offices of Second Prothonotary and Clerk of the Juries were appointed by the Lord Chief Justice on the nomination of the Custos Brevium, and that each of the three Prothonotaries of the said Court had the appointment of one Secondary, and such rights of appointments were continued to the persons then in possession of the said Offices of Custos Brevium and Prothonotaries respectively : AND whereas the persons who were so respectively declared by the said recited Acts to be in possession of the right of sale, nomination or appointment in and to the several Offices mentioned in the said Acts, are still possessed of and have continued to exercise the said rights : AND whereas all the said Offices will be abolished by this Act, and it is only just and reasonable that provision should be made for granting compensation upon equitable principles for all injury to or loss of the same ; BE it further Enacted, That if, since the said Twenty-fourth day of May One thousand eight hundred and Thirty, any party or parties shall, in the exercise of any such right, have been nominated or appointed to any office or offices so declared to be the subject of such right, or if any such office shall be now vacant by death, or the party now holding any such office shall hereafter die, it shall and may be lawful for the person or persons possessed as aforesaid of the right of sale, nomination or appointment in and to such office or offices respectively, or to whom but for this Act such right would have come by virtue of any interest now vested, except as regards compensation for the interest to which any such instrument as hereinafter mentioned shall relate, or for the person or persons in whose favour any such right may have been exercised, to apply to the Lord High Treasurer, or the Commissioners of His Majesty's Treasury, for compensation for the loss of the aforesaid right of sale, nomination or appointment in and to such office or offices respectively, or for any injury affecting such office or offices, or for the loss of such office or offices by the abolition thereof under this Act, and in every such case the said Lord High Treasurer, or any Three of the Commissioners of His Majesty's Treasury, shall forthwith examine into such application, by all and every such means as he or they shall think proper, and thereupon it shall and may be lawful for him or them and they are hereby required to order and direct, by warrant under his or their hands, that such annual or gross sum by way of compensation shall be paid to or to the use of such person or persons, and at such time or times respectively as the said Lord High Treasurer or the said Commissioners of His Majesty's Treasury shall, in his or their discretion, deem just and equitable, regard being had to the value of such offices as ascertained and certified under the provisions of the aforesaid Act of the eleventh year of the reign of King

GEORGE the Fourth, and the first year of the reign of His present Majesty ; and all such Compensations, whether annual or in gross, shall be issued and paid and payable (without any fee or deduction whatsoever) out of and be charged and chargeable upon the Consolidated Fund of the United Kingdom of *Great Britain and Ireland* : 5
 Provided always, That if upon the death of any of the Officers now holding for life any of the offices abolished by this Act, any person shall be able to prove to the satisfaction of the Lord High Treasurer, or Commissioners of His Majesty's Treasury for the time being, that he would in such event have been entitled, under any instrument of 10
 a date prior to the said Twenty-fourth day of May One thousand eight hundred and Thirty, to be appointed to succeed to such office if the same had not been abolished by this Act, it shall be lawful for the Lord High Treasurer, or Commissioners of His Majesty's Treasury for the time being, to award compensation to such person upon 15
 equitable principles, having regard to all the circumstances of the case ; and such compensation, when awarded, shall be payable out of the Consolidated Fund in manner aforesaid : Provided also, That an account of all Compensations granted shall, within Fourteen Days next after the same shall have been granted as aforesaid, be laid be- 20
 fore the Commons' House of Parliament, if Parliament shall be then assembled, or if Parliament shall not be then assembled, then within Fourteen Days after the meeting of Parliament then next following : Provided also, That all the lawful powers and authorities by which the 25
 said Commissioners of His Majesty's Treasury are authorized to purchase any of the offices, rights or interests in this or any other Act mentioned or referred to, shall continue in full force and effect, notwithstanding the abolition of the said offices, rights or interests by this or any other Act or Acts.

23.
 Treasury empowered to grant Compensation to certain Officers of the Court of Common Pleas who were in office prior to 24th May 1830.

AND whereas by the Act hereinbefore recited, passed in the eleventh 30
 year of the reign of King GEORGE the Fourth, and first year of the reign of His present Majesty, certain officers belonging to the Superior Courts of Common Law, who were appointed prior to the Twenty-fourth day of May One thousand eight hundred and Thirty, are entitled to receive Compensation for any loss thereafter sustained by 35
 them in their fees and emoluments in consequence of the amendments and alterations in the process, practice, pleadings and other proceedings of the said Courts : AND whereas by another Act passed in the first and second years of the reign of His present Majesty, to explain and amend the same Act, the Warden of the Fleet Prison was declared 40
 to be within the true intent and meaning of the said first-mentioned Statute, but no provision was made for the several persons holding the offices of Clerk of the Papers in the said Prison, and the Tipstiffs of the Court of Common Pleas, who were severally appointed to their offices by the said Warden prior to the said Twenty-fourth day of May
 One

One thousand eight hundred and Thirty : AND whereas the Clerk of the Papers at the King's Bench Prison, and the Tipstaffs of the Court of King's Bench, have been and now are compensated under the provisions of the said first-recited Act, and it is only just and reasonable that the same description of Officers in the Court of Common Pleas, whose duties and emoluments are similar in their nature to those attached to the Court of King's Bench, should be placed upon the same footing; BE it therefore Enacted, That the Commissioners of His Majesty's Treasury shall ascertain the gross and net annual value of the offices of the said Clerk of the Papers at the Fleet Prison, and the Tipstaffs of the Court of Common Pleas respectively, according to a fair average of the lawful fees and emoluments of such offices for a period of Ten Years next preceding the Twenty-fourth day of May One thousand eight hundred and Thirty, or such other average of years as the said Commissioners may think proper; and according to the same rules and principles as were adopted by the Commissioners in ascertaining the value of other offices in the Superior Courts of Common Law under the provisions of the said recited Acts, and in case the net amount of the fees and emoluments actually received by either of the said Officers has in any year, since the said Twenty-fourth day of May One thousand eight hundred and Thirty, fallen short, or shall hereafter fall short, of the net annual value of their offices as aforesaid, every such Officer shall be entitled to receive from and after the said Twenty-fourth day of May, and so long as he or they shall continue in office, from the Lord High Treasurer or Commissioners of His Majesty's Treasury, the full amount of the difference between the net sum actually received by such Officer and the net value of his office; and the amount so to be paid shall be charged and chargeable and be paid and payable out of the Consolidated Fund of the United Kingdom of *Great Britain and Ireland*, in the same way as other Officers belonging to the Superior Courts of Common Law are now paid; and in case the net amount of the lawful fees and emoluments actually received by either of the said Officers in any year since the said Twenty-fourth day of May has exceeded or shall hereafter exceed the net annual value of their offices ascertained as aforesaid, the surplus shall be paid into the receipt of the Exchequer, to the credit of the Consolidated Fund, at such times and in such manner as the said Commissioners of His Majesty's Treasury shall think proper to direct.

And be it further Enacted, That the provisions and powers contained in the before-recited Act passed in the eleventh year of the reign of King GEORGE the Fourth and the first year of the reign of His present Majesty, intituled, "An Act for Regulating the Receipt and future Appropriation of Fees and Emoluments receivable by Officers of the Superior Courts of Common Law," shall, so far as the same

24.
Persons
whose offices
are abolished
to receive full
Amount of
Compensation
under
11 G. 4. &
1 W. 4. c. 58.
until the
Treasury

shall otherwise determine under the provision of that Act.

same is applicable, extend to all cases in which any office shall be abolished by the authority of this or any subsequent Act, and the person, his heirs, executors or administrators, who in case such office, were not abolished would under the provisions of the last-recited Act have been entitled to receive the difference between the net amount of the fees and emoluments which would have become due in such office and the certified value thereof, or who under that Act and any other Act or Acts of Parliament relating to his office or situation would have been entitled to receive any compensation, salary or official income shall be entitled, from the time of the abolition of such office, to receive the full amount of such certified value, compensation, salary or official income in four equal quarterly payments, on the Fifth days of April, July and January, and the Tenth day of October in each year, to be paid and payable out of the Consolidated Fund of the United Kingdom, without any fee or deduction whatsoever, until a full and fair compensation shall have been fixed and appointed for such person under the powers and provisions of the said recited Act; and when such compensation shall have been so fixed and appointed for such abolished office, the same shall be in like manner a charge upon and shall be paid out of the said Consolidated Fund, without any fee or deduction whatever, by such equal quarterly payments as last aforesaid, together with a proportional part of such annual sum for the time which at the decease of the person entitled thereto shall have elapsed since the last payment thereof.

25.
CLAUSE (A.)
In fixing Compensation regard to be had to the nature of the Offices abolished.

Provided always, and be it Enacted, That in fixing the amount of Compensation to be awarded under the said last-recited Act, due regard shall be had to the different circumstances of the several offices abolished by this Act, and to the nature and extent of the duties from which the persons holding certain of such offices will be relieved by the abolition thereof.

26.
CLAUSE (B.)
Persons required to render annual Account to the Treasury under the recited Act, to render account for portion of the year under the present Act.

Provided also, and be it Enacted, That where any person, under the provisions of the said last-recited Act, shall be required to pay to the Commissioners of His Majesty's Treasury, or shall be entitled to receive from them any sum of money by reason of the amount of his fees and emoluments exceeding or falling short of the net annual value thereof, which shall have been certified as in the said Act is mentioned, such person shall, within Six Weeks after the commencement of this Act, render the account required by the said last-recited Act, for such part of the current year as shall have elapsed between the First day of January in the present year, and the day of the commencement of this Act, and shall be required to pay over, or shall be entitled to receive (as the case may be) an amount proportioned to such part of the year at such early convenient period after the rendering of such account as the said Commissioners of His Majesty's Treasury shall fix and appoint.

AND

Clerk of the Warrants in Court of Common Pleas, and Master or Secondary of the Court of King's Bench, continued in the Office of Registers of Deeds in Middlesex, notwithstanding the abolition of their Offices in the Courts at Law.

AND whereas by an Act passed in the seventh year of the reign of her late Majesty Queen ANNE, intituled, "An Act for the public Registering of Deeds, Conveyances, and Wills, and other Incumbrances, which shall be made of or shall affect any Honors, Manors, Lands, Tenements or Hereditaments within the County of *Middlesex*, after the Twenty-ninth day of September One Thousand Seven Hundred and Nine," and by another Act passed in the twenty-fifth year of the reign of His present Majesty King GEORGE the Second, intituled, "An Act for appointing the Deputy or Secondary of the Chief Clerk to enrol Pleas in the King's Bench, called the Master of the King's Bench Office, one of the Registers or Masters for the Inrolment of Deeds, Wills and other Conveyances in the County of *Middlesex*, in the Place and Stead of such Chief Clerk," it is provided, that the Clerk of the Warrants in the Court of Common Pleas, and the Master or Secondary of the Court of King's Bench, for the time being, shall be two of the Officers for executing the duties of Registers and Masters for the matters and things in the said first-recited Act contained: AND whereas the said Offices of Clerk of the Warrants in the Court of Common Pleas, and the Master or Secondary of the Court of King's Bench, will be abolished by this Act, and doubts may arise whether those Officers can any longer continue legally to execute the duties of such Registers and Masters as aforesaid; BE it therefore Enacted, That nothing in this Act contained shall extend, or be construed to extend, to abolish the office of Registers or Masters for the inrolment of Deeds, Wills, and other Conveyances in the county of *Middlesex*, or for any other matters or things in the said first-recited Act contained, or to deprive any of the persons now holding such office of Registers or Masters of that office, and that such persons shall and may henceforth, and until otherwise provided for by law, continue to hold and enjoy such office, and execute all the powers and duties appertaining thereto, in the same manner to all intents and purposes as if this Act had not been passed; and if the Clerk of the Warrants in the Court of Common Pleas, or the Master or Secondary of the Court of King's Bench, abolished by this Act, and who now hold the office of such Registers or Masters as aforesaid, shall die or resign, or otherwise be discharged from the office of Registers or Masters, it shall be lawful for the Lords Chief Justices of the Courts of King's Bench and Common Pleas for the time being, until otherwise directed by Parliament, to nominate and appoint some fit and proper person to fill the office of such Register or Master, such person being a Master in one of the said Superior Courts of Common Law at *Westminster*, or a Barrister, or an Attorney in the same, in actual practice, of not less than Five Years' standing, in the place or stead of the person so dying, resigning, or being discharged from such office; and the person so nominated and appointed by the Lords Chief Justices as aforesaid shall, previously to his entering

upon or executing such office, take such oath or oaths, and afterwards execute such office, and the powers and duties appertaining thereto, in the same manner to all intents and purposes as the persons executing the same would by law be required and authorized to take and execute if this Act had not been passed.

5

28.
Act may be
altered this
Session.

And be it further Enacted, That this Act may be amended, altered, or repealed by any Act to be passed during the present Session of Parliament.

SCHEDULES

To which the foregoing ACT refers.

SCHEDULE (A.)

OFFICES abolished by this Act from and after the First day of July
One thousand eight hundred and Thirty-seven.

On the Plea Side of the Court of King's Bench :

The Office of

The Chief Clerk.
Secondary or Master of the King's Bench Office.
Clerk of the Rules.
Clerk of the Papers.
Clerk of the Docquets and Judgments.
Signer of the Writs.
Clerk of the Declarations.
Clerk of the Common Bails or Appearances, Estreats
and Posteads.
Custos Brevium et Recordorum.
Clerk of the Inner and Upper Treasuries.
Clerk of the Outer Treasury.
Clerks of the Nisi Prius for *London, Middlesex*, and
the several Circuits in *England* and *Wales*.
Bagbearer to the Custos Brevium.
Clerk of the Errors.
Filacer, Exigenter and Clerk of the Outlawries.

In the Court of Common Pleas :

The Office of

The Custos Brevium.
Prothonotaries.
Secondaries.
Clerk of the Judgments.
Clerk of the Reversals of Outlawries.
Clerk of the Docquets.
Clerk of the Warrants, Enrolments and Estreats.
Clerk of the Essoigns.
Clerk of the Treasury.

Clerk of the Jurata.
 Treasury Keeper.
 Clerk of the Juries.
 Clerk of the Errors.
 Filacers for the several Counties, Cities and Towns in
England and Wales.
 Exigenter and Clerk of the Supersedeas.
 Clerk of the Outlawries.

On the Plea Side of the Court of Exchequer:

The Office of
 The Masters and Prothonotaries.
 Clerk of the Rules.
 Filacer.
 Clerk of the Errors.
 Clerk of the Pleas.

SCHEDULE (B.)

PERSONS appointed by this ACT as the MASTERS of the SUPERIOR
 COURTS of COMMON LAW.

The Five Masters on the Plea Side of the Court of King's Bench;
 namely,—

Thomas Le Blanc, Esquire.
 Fortunatus Dwaris, Esquire.
 Sir Archer Denman Croft, Baronet.
 Richard Goodrich, Esquire.
 James Bunce, Esquire.

The Five Masters of the Court of Common Pleas; namely,—

Henry Belward Ray, Esquire.
 Alexander Atherton Park, Esquire.
 John Henry Cancellor, Esquire.
 Edward Griffiths, Esquire.
 Edward Robert Porter, Esquire.

The Five Masters on the Plea Side of the Court of Exchequer;
 namely,—

Thomas Dax, Esquire.
 Kenrick Collett, Esquire.
 Edmund Walker, Esquire.
 Stephen Richards, Esquire.
 George Chilton, Esquire.

I have been thinking of you
very much lately and wondering
how you are getting on.
I hope you are well and happy.

Common Law Courts.

A

B I L L

[AS AMENDED BY THE COMMITTEE]

TO abolish certain Offices in the Superior
Courts of Common Law, and to make
Provision for a more effective and uniform
Establishment of Officers in those Courts.

(Prepared and brought in by
Mr. Sergeant Goulburn, Mr. Freshfield
and Mr. Aglionby.)

Ordered, by The House of Commons, to be Printed,
14 March 1837.



A

B I L L,

INTITULED,

AN ACT to facilitate the Conveyance of Lands and Buildings for the Purposes of Two Acts passed respectively in the Fifth and Sixth Years of His late Majesty King WILLIAM the Fourth.

Note.—*The Figures in the Margin denote the Number of Folios in the Written Copy.*

1 **W**H E R E A S an Act was passed in the fifth year of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act for the Amendment and better Administration of the Laws relating to the Poor in *England* and *Wales*:" And whereas another Act was passed in the sixth year of the reign of his said late Majesty, intituled, "An Act to facilitate the Conveyance of Workhouses and other Property of Parishes and of Incorporations or Unions of Parishes in *England* and *Wales*:" And whereas doubts are entertained as to whether the herein-recited Acts respectively apply to lands or buildings or other hereditaments of copyhold or customary tenure; and it is expedient that such doubts should be removed, and that the provisions of the said Acts should be extended in some respects; ~~B E~~ **it therefore Enacted and Declared**, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the
2 Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, **THAT** the provisions of the said herein-recited Acts apply to and comprise Lands and Buildings and other hereditaments of copyhold or customary tenure, as well as Lands, Buildings and other hereditaments of freehold tenure.

Preamble:

4 & 5 W. IV.
c. 76.

5 & 6 W. IV.
c. 69.

1.
Provisions of
recited Acts
to extend to
Copyhold
Lands, &c.

2.
Provision for
Enfranchise-
ment of Copy-
holds.

And be it Enacted, That whenever any contract shall be entered into for the purposes of the said recited Acts or either of them, or of this Act, respecting any Lands, Buildings or other hereditaments of copyhold or customary tenure, it shall be lawful for the Poor Law Commissioners to direct that the difference in value of such Lands or Buildings or other hereditaments, as of copyhold or customary tenure, and the freehold or fee-simple thereof, including therein the value of any fine, heriot or customary due, payment or rent, or any service capable of being valued, in respect of such Land or Building or other hereditaments, shall be ascertained by such means as they shall think fit; and that such difference in value when so ascertained shall be paid to or invested for the use and benefit of the Lord of the Manor of which such Lands or Buildings or other hereditaments shall be parcel, or such other person as would be entitled to the fines payable upon death or alienation of the same, or to such heriot, dues, payment, rent or service respectively; and upon and from the making of such payment or investment such Lands or Buildings or other hereditaments shall thenceforth be deemed enfranchised and for ever discharged from every fine, customary or copyhold heriot, due, payment, rent, suit or service; and such Lands and Buildings and other hereditaments shall thenceforth be and remain of the tenure of free and common socage: Provided always, That if any such Lord of the Manor or other person be under any legal disability, the powers of the said recited Acts, and of every other Act for building, hiring or purchasing Workhouses, or for acquiring Lands for workhouse purposes, enabling persons under disability to convey or otherwise dispose of and deal with property, shall apply to such Lord of the Manor or other person as amply and fully as if the case had been expressly provided for in such Acts, or any of them: Provided also, That if such Lord of the Manor or other person be dissatisfied with such valuation, and shall within Seven Days after a tender made to him of the amount thereof, or after notice left at his last known place of residence, or with his known agent, of such amount being ready to be paid to him or invested as aforesaid, send notice by the post to the Poor Law Commissioners of such dissatisfaction, it shall be lawful for the Poor Law Commissioners to direct a further valuation to be made, at or within such period as they may see fit, by Two Valuers, one to be named by the Poor Law Commissioners, and the other by such Lord of the Manor or other person, which Two persons so named shall, previous to their entering on their valuation, name a third Valuer, to be referred to in case they disagree, and the award of such Three Valuers, or any Two of them, shall be binding on all parties; and on payment or investment, under the provisions of the said recited Acts or any of them, or of this Act, of the amount of such last-mentioned valuation, such Lands or Buildings and other hereditaments shall thenceforth be deemed

deemed enfranchised and discharged in manner aforesaid, and be and remain of the tenure of free and common socage: Provided always, That it shall be lawful for any Overseers, Guardians, Lord of the Manor, or other person to complete any voluntary agreement for the purchase and enfranchisement of any copyhold or customary Lands, Building or other hereditaments, under the direction and with the approbation of the Poor Law Commissioners, in like manner as if such agreement had been originally made under this Act, any thing in the said Acts or either of them, or in this Act, to the contrary notwithstanding; and in every such case, if any Lord of the Manor or other person be under legal disability, the power of the said recited Acts and of any other Act for building, hiring or purchasing Workhouses, or for acquiring Lands for workhouse purposes, enabling persons to convey or otherwise dispose of or deal with property, shall apply to such Lord of the Manor or other person as amply and fully as if the case had been expressly provided for in such Acts or any of them.

5 And be it Enacted, That when and so soon as any such enfranchisement as aforesaid shall have been made, it shall be lawful for the Steward of the Manor whereof the same Lands or Buildings were parcel, and he is hereby required, on receipt of a certificate of such valuation being made and enfranchisement effected, under the hands and seal of the Poor Law Commissioners, to enter such certificate on the rolls or books of the said manor, and to furnish a copy of such entry, written on parchment, to the Poor Law Commissioners, or to such person or persons as they may direct, and to certify the same to be a true extract under his hand; and such certificate or a copy thereof under the seal of the Poor Law Commissioners shall thenceforth be evidence of such enfranchisement.

3.
Steward of
Manor to
enter Certifi-
cate on Rolls
of the Manor,
and to furnish
a parchment
copy thereof
to the Poor
Law Com-
missioners.

And be it Enacted, that all conveyances or instruments by way of sale or exchange, or assignment, or security or transfer, to be made under the authority of the said recited Acts, or either of them, or of this Act, may be made in such form as the Poor Law Commissioners shall, by any order or orders signed by them and sealed with their common seal, direct or approve of, or as near thereto as the number of parties, the nature of the interests, and the circumstances of each case will admit, and shall be valid and effectual in the law, without livery of seisin being made, or any bargain and sale to vest possession being executed, and without being enrolled.

4.
Mode of
Conveyance.

Conveyance of Buildings and Land.

A

B I L L,

INTITULED,

AN ACT to facilitate the Conveyance of Lands
and Buildings for the Purposes of Two Acts
passed respectively in the Fifth and Sixth
Years of His late Majesty King WILLIAM
the Fourth.

Ordered, by The House of Commons, to be Printed,
7 July 1837.



A

B I L L

To consolidate and amend the Laws relating to Copyright in Printed Books, Musical Compositions, Acted Dramas, and Engravings, to provide Remedies for the Violation thereof, and to extend the Term of its Duration.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WH **E**R **E**A **S** it is expedient to consolidate and render uniform the Laws relating to Copyright in Printed Books, Musical Compositions, Acted Dramas and Engravings, and to afford greater encouragement to the Authors and Inventors thereof, by extending the term of their exclusive right therein ; **B**E **i**t **t**h**e**r**e**f**o**r**e** **E**n**a**ct**e**d, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, **T**H**A**T from and after the *passing of this Act*, an Act passed in the eighth year of the reign of her late Majesty Queen ANNE, intituled, "An Act for the Encouragement of Learning by vesting the Copies of Printed Books in the Authors or Purchasers of such Copies during the times therein mentioned ;" and also an Act passed in the eighth year of the reign of his late Majesty King GEORGE the Second, intituled, "An Act for the Encouragement of the Arts of designing, engraving and etching historical and other Prints, by vesting the Properties thereof in the Inventors and Engravers during the time therein mentioned ;" and also an Act passed in the seventh year of the reign of his late Majesty King GEORGE the Third, intituled, "An Act to amend and render more effectual an Act made in the eighth year of the reign of King GEORGE the Second, for Encouragement of the Arts of designing, engraving and etching historical and other Prints, and

Preamble.

1.
Repeal of former Acts, 8 Ann, c. 19.

8 Geo. 2, c. 13 (as to Engravings).

7 Geo. 3, c. 38 (as to Engravings).

17 Geo. 3, c. 57
(Engravings).

41 Geo. 3, c. 107.

54 Geo. 3, c. 156
(extending Copyright
in Books).

6 & 7 Will. 4, c. 59
(for extending Copy-
right in Prints to Ire-
land).

2.
Interpretation
Clause.

3.
Copyright in any
Book hereafter to be
published to inure
to the Author for life,
and for Sixty Years
commencing at his
death.

for vesting in and securing to Jane Hogarth, Widow, the Property in certain Prints ;” and also an Act passed in the seventeenth year of the reign of his late Majesty King GEORGE the Third, intituled, “ An Act for more effectually securing the Property of Prints to Inventors and Engravers, by enabling them to sue for and recover Penalties in certain cases ;” and also an Act passed in the forty-first year of the reign of his late Majesty King GEORGE the Third, intituled, “ An Act for the further Encouragement of Learning in the United Kingdom of Great Britain and Ireland, by securing the Copies and Copyright of Printed Books to the Authors of such Books, or their Assigns, for the time therein mentioned ;” and also in an Act passed in the fifty-fourth year of the reign of his late Majesty King GEORGE the Third, intituled, “ An Act to amend the several Acts for the Encouragement of Learning, by securing the Copies and Copyright of Printed Books to the Authors of such Books or their Assigns ;” and also an Act passed in the sixth and seventh years of the reign of His present Majesty, intituled, “ An Act to extend the Protection of Copyright in Prints and Engravings to Ireland,” be and the same are hereby Repealed.

And be it Enacted, That, in the construction of this Act, the word “ Book ” shall be construed to mean and include every volume, pamphlet, sheet of letter-press and sheet of music, map, chart or plan ; that the word “ Dramatic Piece ” shall be construed to mean and include every tragedy, comedy, play, opera, farce or other scenic or dramatic entertainment ; that the word “ Engraving ” shall be construed to mean and include every print, work in mezzotinto, chiaro oscuro, etching or drawing, whether engraved, etched, drawn or imprinted on copper, steel, wood, stone or other material ; that the word “ Copyright ” shall be construed to mean the sole and exclusive liberty of printing, engraving or otherwise making and multiplying copies within any part of the British Dominions of any subject to which it is herein applied ; and that whenever in this Act, in describing any person or party, matter or thing, the word importing the singular number or the masculine gender only is used, the same shall be understood to include and to be applied to several persons or parties as well as one person or party, and females as well as males, and several matters or things as well as one matter or thing respectively, unless there shall be something in the subject or context repugnant to such construction.

And be it Enacted, That the Copyright in any Book composed and not published, or which shall hereafter be composed and published, shall be the property of the Author thereof, his executors, administrators and assigns, for the term of the natural life of such Author, and the further term of *Sixty Years*, commencing at the time of his death.

And

And be it Enacted, That in all cases in which the Copyright in any Book shall be subsisting at the time of *passing this Act*, and shall belong to the Author thereof, either absolutely or subject to any license or partial assignment, such Copyright shall continue for the term of the natural life of such Author, and the further term of *Sixty Years*, commencing at the death of such Author; and that in all cases in which the Copyright in any Book shall be subsisting, but the Author thereof shall be dead at the time of *passing this Act*, and such Copyright shall, either absolutely or subject to any license or partial assignment thereof, belong to the personal representative, or to the legatee, widow or next of kin of such Author, or other person who may have acquired the same in the course of the administration of the estate of such Author, such Copyright shall continue for the residue of the term of *Sixty Years*, commencing at the time of the death of such Author.

4.
In cases of subsisting Copyright in the Author, the same shall continue for his life and for *Sixty Years* from his death.

And if the Author be dead, and the Copyright in his Representative, such Representative shall have the same for the residue of the term of *Sixty Years* from the Author's death.

And be it Enacted, That in all cases in which the Copyright in any Book shall be subsisting at the time of *passing this Act*, but the Author thereof shall, before the *passing of this Act*, have assigned his interest in such Copyright, such Copyright shall continue and belong to such assignee until the expiration of the term of *Twenty-eight Years* from the first publication of such Book, and in case the Author thereof shall then be living, for the residue of the life of such Author; and upon the expiration of the said term of *Twenty-eight Years*, if the Author shall be then dead, or if he shall then be living, at the time of his death, such Copyright shall continue and revert to the executors or administrators of such Author for the term of *Sixty Years*, commencing from the time of his death, and such reversionary interest shall be subject to the like voluntary and legal disposal and distribution as other personal property: Provided nevertheless, and be it Enacted, That where any Book consisting of one entire subject shall before the *passing of this Act* have been published in parts, the term of the Copyright therein and in every part thereof, both of the Author and his assigns, shall be deemed to run only from the date of the publication of the last of such parts; and that in case of the assignment of the Copyright in any such Book before the *passing of this Act*, the Copyright therein shall not revert to the representative of the Author thereof until the expiration of the term of *Twenty-eight Years* from the publication of the last of such parts or the death of such Author: Provided also, and be it Enacted, That where the Copyright in any Book shall have been assigned before the *passing of this Act*, nothing herein contained shall prejudice the right of the assignee thereof to sell or dispose, after his interest shall have expired, of any copies of such Book printed during the continuance of his interest in the same.

5.
In cases of subsisting Copyright which has been assigned, the Assignee shall enjoy it for the Author's life, or for *Twenty-eight Years*, and it shall afterwards revert to the Representatives of the Author for the residue of *Sixty Years* from his death.

Proviso, that if a Book has been published in parts, the term of the Copyright shall run from the publication of the last part.

Proviso for the sale of Copies printed during the interest of the Assignee.

6.

Whenever Five Years shall elapse after the expiration of the Twenty-eight Years, or the Author's death, without publication of any Works out of print, any one may petition the Lord Chancellor, Master of the Rolls or Vice-Chancellor, for liberty to re-publish the same, and re-publish the same on such permission.

And be it Enacted, That whenever a period of *Five* Years shall elapse after the expiration of *Twenty-eight* Years from the first publication of any Book, or after the death of the Author thereof, if he be living at the end of such period, without any new edition thereof being published, and such Book shall be out of print, it shall be lawful for any person to give notice in writing to the party entitled to the Copyright of such Book, by leaving the same at the last place of publication of such Book, or at the place of abode of such proprietor, that the same is out of print, and that at the expiration of *One* Year from the giving of such notice, if such Book does not exceed *Five hundred* Pages, or *Two* Years if it exceeds *Five hundred* Pages, he will apply to the Lord High Chancellor, Master of the Rolls or Vice-Chancellor, for permission to re-print and re-publish the same; and if at the expiration of such respective periods of *One* Year or *Two* Years, such party entitled to the Copyright of such Book shall not re-publish such Book, then it shall be lawful for the Lord High Chancellor, Master of the Rolls or Vice-Chancellor, upon the petition of the party by whom such notice was given, or his executors or administrators, to allow the petitioner to re-print and re-publish such Book for his own benefit, for such period and on such terms and conditions as to the said Lord High Chancellor, Master of the Rolls or Vice-Chancellor shall seem just.

7.

Five Copies of every Book to be delivered within a Month after demand for the use of the following Libraries: British Museum, Bodleian Library at Oxford, Public Library at Cambridge, Advocates at Edinburgh, Trinity College, Dublin.

And be it Enacted, That *Five* printed Copies of the whole of every Book, together with maps and prints belonging thereto, which from and after the *passing of this Act* shall be printed and published, on demand thereof being made in writing to or left at the place of abode of the Publisher or Publishers thereof, at any time within *Twelve* Months next after the publication thereof, under the hand of the Officer of the Company of Stationers, who shall from time to time be appointed by the said Company for the purposes of this Act, or other person thereto authorized by the persons or bodies politic and corporate, proprietors and managers of the libraries following; videlicet, the British Museum, the Bodleian Library at Oxford, the Public Library at Cambridge, the Library of the Faculty of Advocates at Edinburgh, Trinity College at Dublin, or so many of such *Five* Copies as shall be respectively demanded on behalf of such libraries respectively, shall be delivered in the like condition as to the binding thereof as the Copies prepared for sale, by the Publisher or Publishers thereof respectively, within *One* Month after demand made thereof in writing as aforesaid to the said officer of the said Company of Stationers for the time being, which Copies the said officer shall and he is hereby required to receive at the Hall of the said Company, for the use of the library for which such demand shall be made, within such *Twelve* Months as aforesaid; and the said Officer is hereby required, within *One* Month after any such Book shall be so delivered to him as aforesaid, to deliver the same for the use of such

such library; and if any Publisher, or the officer of the said Company of Stationers, shall not observe the directions of this Act, then that he and they making default in delivering or receiving any of the said *Five* printed copies as aforesaid, shall for every such default, upon conviction before any *Two* Justices of the Peace for the City of London or County of Middlesex, forfeit and pay, besides the value of the Book, in respect whereof such default shall be made, the sum of *Five* Pounds for each copy not so delivered or received: Provided always, That the copy of any Book which shall be demanded for the British Museum shall be delivered of the best paper on which such work shall be printed, and that the copies of the said work which shall be demanded for the said other libraries shall be upon the paper of which the largest number or impression of such Book shall be printed for sale: Provided also, and be it Enacted, That no such printed copy or copies shall be demanded by, or delivered to, or for the use of any of the libraries hereinbefore mentioned of the Second Edition, or of any subsequent Edition of any Book so demanded and delivered as aforesaid, unless the same shall contain any additions or alterations; and in case any Edition after the first of any Book so demanded and delivered as aforesaid, shall contain any addition or alteration, no printed copy or copies thereof shall be demanded and delivered as aforesaid, if a printed copy of such additions or alterations only, printed in an uniform manner with the former Edition of such Book, be delivered to each of the libraries aforesaid, for whose use a copy of the former Edition shall have been demanded and delivered as aforesaid: Provided also, and be it Enacted, That if any Publisher shall be desirous of delivering the copy of such Book, as shall be demanded on behalf of any of the said libraries, at such library, it shall be lawful for him to deliver the same at such library to such librarian or other person authorized to receive the same (who is hereby required to receive and to give a receipt in writing for the same), and such delivery shall to all intents and purposes of this Act be held as equivalent to a delivery to the said officer of the Stationers' Company.

Penalty for not delivering or receiving the Copies.

Copies of second Editions, &c. not required.

Except Copies of additions or alterations.

Publishers may deliver the Copies to the Libraries instead of the Stationers' Company.

And be it Enacted, That a Book of Registry, wherein may be registered, as hereinafter enacted, the property in the Copyright of Books and Engravings, and Assignments thereof, shall at all times be kept at the Hall of the Stationers' Company by the Officer appointed by the said Company for the purposes of this Act, and shall at all convenient times be open to the inspection of any person on payment of *One* Shilling for such inspection, and that such Officer shall, whenever thereunto reasonably required, give a copy of any entry in such book, certified under his hand, to any person requiring the same, on payment to him of the sum of *Five* Shillings; and such copies, so certified, shall be received in evidence in all Courts and in all summary proceedings on proof of the handwriting of such Officer, and shall be deemed and taken to be *primâ facie* proof of the Proprietorship or Assignment of

8.

Book of Registry to be kept at Stationers' Hall.

Copyright as therein expressed ; but subject to be rebutted by other evidence.

9.
Party making a false entry in the Book of Registry, to be guilty of a Misdemeanor.

And be it Enacted, That if any person shall wilfully make or cause to be made any false entry in the said Registry Book of the Stationers' Company, he shall be guilty of an indictable Misdemeanor, and shall be punished accordingly.

10.
Entries of Copyright may be made in the Book of Registry.

And be it Enacted, That it shall be lawful for the proprietor of Copyright in any Book or Engraving heretofore published or hereafter to be published, to make entry in the Registry Book of the Stationers' Company of the title of such Book or Engraving, the date of the first publication thereof, the name and place of abode of the publisher thereof, and the name and place of abode of the proprietor of the Copyright of the said Book or Engraving, and of the interest of any person to whom such proprietor may have contracted or may desire to assign any portion of his right therein, in the form in that behalf given in the Schedule to this Act annexed ; and that it shall be lawful for every such registered proprietor of Copyright to assign such Copyright or any portion of his interest therein, or to give any license for the publication of any number of copies of such Book, by making entry in the said Book of Registry of such assignment or license, and of the name and place of abode of the assignee thereof or party so licensed, in the form given in that behalf in the said Schedule ; and such assignment and license so entered shall be good and effectual in law to all intents and purposes whatsoever without being subject to any Stamp or Duty : Provided always, That no original entry of the Proprietorship of the Copyright in or to any Book or Engraving hereafter to be published shall be made without the concurrence, expressed in writing, of the publisher by whom such Book shall be published, according to the form in that behalf given in the said Schedule.

11.
Authors first publishing Abroad, to be entitled to Copyright in the British Dominions, on making Entry at Stationers' Hall within One Year from the first publication, and forthwith publishing here.

AND whereas doubts have been entertained respecting the right of Authors of Books first published in parts beyond the seas, which are not within the British dominions, to enjoy property in the Copyright thereof within such dominions, and it is expedient to remove the same, and to declare the law applicable thereto ; BE it Enacted, That it shall be lawful for the Author of any Book published after the *passing of this Act*, in parts without the British dominions, whether he be or be not a subject of His Majesty, or for the assignee of such Author claiming under an assignment, in writing signed by such Author, to cause entry to be made within *One Year* from the time of the first publication of such Book, in the said Registry Book, and according to the form given in that respect in the Schedule hereunto annexed, stating the name of the Author or his assignee, the date and place of the first publication of such Book, and the name and place of abode of the intended publisher

publisher thereof in the British dominions, whose concurrence in such entry shall be signified by writing under his hand, in the form in that behalf given in the said Schedule; and thereupon the party making such entry, and forthwith publishing or causing to be published such

5 Book within the British dominions, shall have and enjoy the Copyright thereof within the dominions of His Majesty for the like term, commencing from its first publication, and with the like power of assigning the same by entry in the said Book of Registry, and with all such remedies as are by law given to Authors, subjects of His Majesty, first

10 publishing Books in the British dominions, and making due entry thereof in the said Book of Registry, for the infringement of Copyright in such Books: Provided always, That no person shall have Copyright in any Book first published out of the dominions of His Majesty, which shall not within *One Year* be registered as aforesaid, and be published forth-

15 with after such entry.

Provided that no Author publishing Abroad shall have Copyright here, unless he shall make such Entry and forthwith publish.

And be it Enacted, That if any person shall deem himself aggrieved by any entry made in the said Registry Book of the Stationers' Company, it shall be lawful for such person to present a Petition to the Lord High Chancellor, the Master of the Rolls or the Vice-Chan-

20 cellor, or to apply by motion to the Court of King's Bench, Court of Common Pleas, or Court of Exchequer, for such Order for altering or expunging such entry as to the said Lord High Chancellor, Master of the Rolls, Vice-Chancellor or Court shall seem just; and thereupon the Lord High Chancellor, Vice-Chancellor Master of the Rolls

25 or Court shall make such Order, either with or without costs as to them shall seem just; and the Officer appointed for the purposes of this Act by the Stationers' Company shall expunge, alter or retain any such entry according to the requisition of such Order.

12.

Any one aggrieved by any Entry in the Registry Book, may apply to the Lord Chancellor, Master of the Rolls, Vice-Chancellor, or Court of Common Law, to order it to be altered or expunged.

And be it Enacted, That if any person shall, in any part of the

30 British dominions, after the *passing of this Act*, print or cause to be printed any Book in which there shall be subsisting Copyright, or any Book containing any portion of a Book in which there shall be such Copyright (except as hereafter mentioned), without the consent of the proprietor of such Copyright, or shall import any such Book so having

35 been unlawfully printed from parts beyond the sea, or knowing such Book to have been so unlawfully printed or imported, shall sell, publish or expose to sale, or cause to be sold, published or exposed to sale, or shall have in his possession for sale any such Book so unlawfully printed or imported, without such consent as aforesaid, such offender

40 shall be liable to a special action on the case, at the suit of the proprietor of such Copyright, to be brought in any Court of Record in that part of the British dominions in which the offence shall be committed; and every such proprietor shall and may, in such action, recover such damages as the jury on the trial of such action, or on the execution of a

13.

Remedy for the piracy of Books or parts of Books, by action on the case.

Proviso for Scotland.

writ of inquiry thereon, shall give or assess (not being in any case less than *Forty Shillings*), with all costs of suit reasonably incurred, to be taxed as between attorney and client: Provided always, That in Scotland such offender shall be liable to an action of damages in the Court of Session in Scotland, which shall and may be brought and prosecuted in the same manner in which any other action of damages to the like amount may be brought and prosecuted there; and in any such action, when damages shall be awarded, all reasonable costs of suit or expenses of process shall be allowed as between attorney and client: Provided always, That nothing herein contained shall be construed to extend to the publication of any extracts fairly and bonâ fide made from any Book for the purpose of criticism, observation or argument, or to any translation into another language, or abridgment fairly made of any book.

14.
Term of the exclusive right in the representation of Dramatic Works extended to that of Authors.

AND whereas an Act was passed in the third year of the reign of His present Majesty, to amend the laws relating to Dramatic Literary Property, and it is expedient to extend the term of the sole liberty of representing Dramatic Pieces given by that Act to the full term by this Act provided for the continuance of property of Authors in the Copyright of Books; BE it therefore Enacted, That the sole liberty of representing or causing to be represented any Dramatic Piece composed and not published, or which shall hereafter be composed and published at any place of public entertainment in any part of the British dominions, shall be the property of the Author or Composer thereof, his executors, administrators and assigns, for the term of the natural life of the Author or Composer thereof, and for the further term of *Sixty Years*, commencing at the time of his death.

15.
Where the sole liberty of representing a Dramatic Piece now belongs to the Author, it shall endure for his Life, and for Sixty Years from his death;

and if the Author is dead, his Representative shall have it for Sixty Years from his death.

And be it Enacted, That in all cases in which the sole liberty of representing and causing to be represented any Dramatic Piece shall, at the time of *passing this Act*, belong to the Author thereof, either absolutely or subject to any license or partial assignment, such sole liberty shall continue for the term of the natural life of such Author, and for the further term of *Sixty Years*, commencing from the death of such Author; and that in all cases in which such sole liberty of representing and causing to be represented any Dramatic Pieces shall be subsisting, but the Author thereof shall be dead at the time of *passing this Act*, such sole liberty of representing and causing to be represented such Dramatic Piece shall either absolutely, or subject to any license or partial assignment thereof, belong to the personal representative, or to the legatee, widow or next of kin of such Author or other person who may have acquired the same in the course of administration of the estate of such Author, and such sole liberty of representing and causing to be represented such Dramatic Piece shall continue for the residue of the term of *Sixty Years*, commencing at the time of the death of such Author.

And

And be it Enacted, That in all cases in which the sole liberty of representing and causing to be represented any Dramatic Piece shall be subsisting at the time of *passing this Act*, but the Author thereof shall, before the *passing of this Act*, have assigned his interest in such sole liberty of
 5 representing and causing to be represented such Dramatic Piece, such right shall continue and belong to such assignee until the expiration of the term of *Twenty-eight* Years from the first representation of such Dramatic Piece, and if the Author thereof shall then be living, for the residue of the life of such Author; and upon the expiration of the said
 10 term of *Twenty-eight* Years, if the Author shall be then dead, or if he shall then be living, at the time of his death, such sole liberty of representing and causing to be represented such Dramatic Piece shall continue and revert to the executors or administrators of such Author for the term of *Sixty* Years, commencing from the time of his death; and
 15 such reversionary interest shall be subject to the like voluntary and legal disposal and distribution as other personal property.

And be it Enacted, That the party who shall at any time have the sole liberty of representing such Dramatic Piece shall have and enjoy the remedies given and provided in the said Act of His present Ma-
 20 jesty, passed to amend the laws relating to Dramatic Literary Property during the whole of his interest therein, as fully as if the same were re-enacted in this Act.

And be it Enacted, That no assignment of the Copyright of any Book, consisting of or containing a Dramatic Piece, shall be holden to
 25 convey to the assignee the right or liberty of representing such Dramatic Piece, unless an entry in the said Registry Book shall be made of such assignment, wherein shall be expressed the intention of the parties that such right or liberty should pass by such assignment.

And be it Enacted, That every person who at the time of the
 30 *passing of this Act* shall be entitled to Copyright in any Engraving, or to any interest in such Copyright, shall retain and enjoy such Copyright or interest in such Copyright for the term during which he would have been entitled to enjoy such Copyright or interest if this Act had not passed, any thing herein contained to the contrary notwithstanding;
 35 and that such person shall be entitled to and have the remedies given by this Act for the infringement of Copyright in Engravings during such his term of property or interest therein.

And be it Enacted, That whenever, after the *passing of this Act*, any Painter shall make or cause to be made any Engraving from any picture,
 40 whereof he is himself the painter and also the proprietor, and which has not heretofore been engraved by his license, the Copyright in every such Engraving shall belong to him, his executors, administrators and assigns for the same term as the Author of a Book published after the *passing of this Act* will be entitled to enjoy by virtue of this Act.

16.

When the right of representing any Dramatic Piece shall have been assigned, the right shall continue in the Assignee for *Twenty-eight* Years, or for the life of the Author, and afterwards shall belong to the Representative of such Author.

17.

The Proprietor of the right of Dramatic representation shall have all the remedies given by the Act 3 & 4 W. 4.

18.

No assignment of Copyright of a Dramatic Piece shall convey the right of representation, unless an Entry to that effect shall be made in the Book of Registry.

19.

Subsisting Copyright interest in Engravings to remain as before the passing of this Act.

20.

The Engraver of a Picture, being also its Proprietor, shall have the Copyright for the same term as the Author of a Book.

21.

Engraver of a Picture, with license of the Painter, being the Proprietor, shall have the Copyright in the Engraving.

And be it Enacted, That wherever any Engraver shall obtain from the Painter of any picture not previously engraved, and whereof such Painter is also the proprietor, his license in writing to take an Engraving from such picture, and such Engraver shall thereupon, after the *passing of this Act*, take an Engraving from the same, such Engraver shall have the Copyright therein for the same term as if the said Engraving were made by such painter thereof; and any license afterwards granted to any other person to take an Engraving from the same picture shall be wholly void.

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22.

No Engraving to be made from a Picture without the consent of the Painter and Proprietor; and if an Engraver shall have such consent, he shall have the Copyright in the Engraving.

And be it Enacted, That when the Proprietor of any picture shall not be the Painter thereof, and such picture shall not have heretofore been engraved with the consent of such proprietor, no Engraving shall be made from such picture without the consent in writing, as well of such Painter (if such Painter be living) as of such Proprietor; and that wherever any Engraver shall so have received such consent to his taking an Engraving of such picture, and he shall in pursuance thereof have made such Engraving, such Engraver shall have the Copyright in such Engraving for the same term as if such Engraving were made by the Painter thereof as aforesaid; and any license afterwards granted to any other person to take an Engraving from the same picture shall be wholly void.

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23.

The Copyright in an Engraving of original Design shall be in the Engraver.

And be it Enacted, That where any Engraving hereafter to be made shall not have been taken from any picture or engraving, but from and after the original design of the Engraver, the Copyright therein shall belong and continue to such Engraver, his executors, administrators and assigns, for the same term as the Copyright in any Book first published after the *passing of this Act*.

25

24.

Copyright in Engraving from a Picture belonging to a Public Institution shall be in the first Engraver.

And be it Enacted, That if any person shall, after the *passing of this Act*, lawfully make or cause to be made any Engraving from any picture which shall belong to any public institution, the Copyright in such Engraving shall belong to such person for the term of Copyright hereinbefore declared and created in the case of an Engraving from a picture, with the consent of the Painter or Proprietor thereof: Provided nevertheless, That nothing herein contained shall restrain or prevent any other person from making or causing to be made a new Engraving from such picture, and from publishing and disposing of the copies of such Engraving at his free will and pleasure.

30

35

Proviso that other Engravings may be made from the same Picture.

25.

Two copies of registered Engravings to be left for the British Museum, and for deposit at Stationers' Hall.

And be it Enacted, That whenever the proprietor of Copyright in any Engraving shall make entry of such Engraving in the Registry Book of the Stationers' Company, pursuant to this Act, he shall at the same time deliver to the Officer appointed by the said Company two copies of such Engraving, one of which copies shall be for the use of the British Museum, and the other shall remain in the custody of the said Company, to be by them kept for inspection and production as hereinafter mentioned; and unless such copies shall be so delivered,

40

delivered, such Officer shall refuse to make any entry of such Engraving; and the said officer, having received such copies, shall forthwith cause one of the said copies of such Engraving to be delivered at the British Museum, and he shall forthwith inscribe on the border of
 5 the other of the said copies a reference to the page in the Book of Registry where the Engraving of which the same shall be a copy shall be entered and the date of such entry; and such copy of such Engraving shall be open to the inspection of all persons at all convenient times, on payment of *One* Shilling to such officer, and shall be produced
 10 by such officer, or by some person authorized by such officer, on the trial of any action or other proceeding relating to the Copyright in the said Engraving, on payment of the reasonable expenses of the party who shall so produce the same.

26.

Remedy for the piracy of Engravings, or Copies of Engravings, by action on the case.

And be it Enacted, That if any person shall, in any part of the
 15 British dominions, after the *passing of this Act*, engrave, etch, work, print, copy or imitate, in whole or in part, for sale, or cause to be engraven, etched, worked, printed, copied or imitated, in whole or in part, for sale, any Engraving in which Copyright shall subsist, without the consent of the proprietor of such Copyright, or shall import, or
 20 cause to be imported, without such consent, any copy or imitation, in whole or in part, of any Engraving in which Copyright shall subsist, for sale, and which has been so unlawfully engraved, etched, worked, printed, copied or imitated, or knowing the same to have been so unlawfully engraved, etched, worked, printed, copied or imitated, shall have,
 25 without such consent, any such copy or imitation of such Engraving in his possession for sale, he shall be liable to such action at the suit of the proprietor of such copyright in such Engraving as is hereby given to the proprietor of Copyright in any Book for the infringement hereof, and shall in like manner recover his costs, reasonably incurred, to
 30 be taxed as between attorney and client.

27.

Power to the Lord Chancellor, Vice-Chancellor, Master of the Rolls, and Court of Law, to grant Injunction in case of piracy.

And be it Enacted, That if it shall appear to the Lord High Chancellor, the Master of the Rolls or the Vice-Chancellor, or to the Court of King's Bench, Court of Common Pleas or Exchequer, in term time, or to any Judge of either of the said Courts in vacation, that any Book
 35 or Engraving, copied in whole or in part from any Book or Engraving wherein Copyright shall subsist, shall be published and exposed to sale, or intended to be published and exposed to sale without the consent of the registered Proprietor of such Copyright, it shall be lawful for such Lord High Chancellor, Vice-Chancellor, Master of Rolls, Court or Judge
 40 to make order of injunction upon the Printer, Engraver or Publisher, or intended Printer, Engraver or Publisher of such pirated Book or Engraving, to restrain the printing, publication and sale thereof, or either of them: Provided always, That such Lord High Chancellor, Vice-Chancellor, Master of Rolls, or Court or Judge, shall refuse such order

in the case of any Book which shall be in part copied, if it shall appear that such part shall only be copied for the purpose of criticism, argument or observation thereon.

28.

Books or Engravings
pirated shall become
the property of the
Proprietor of the
Copyright, and may
be recovered by ac-
tion or seized by
Warrant of Two
Justices.

And be it Enacted, That all copies of any Book or Engraving wherein there shall be Copyright, and of which entry shall have been made in the said Registry Book, and which shall have been unlawfully printed or imported without the consent of the registered Proprietor of such Copyright, shall be deemed to be the property of the party registered as the immediate Proprietor of such Copyright, and such registered Proprietor shall, after demand thereof made in writing, be entitled to sue for and recover the same, or damages for the detention thereof, in an action of Detinue from any party who shall detain the same, or to sue for and recover damages for the conversion thereof in an action of Trover; and it shall be lawful for any *Two* Justices of the Peace for the city, county, division or place wherein such copies of any Book or Engraving shall be found, upon the information and complaint of such registered Proprietor of the Copyright, to summon before them the party in whose possession such copies shall be found, and on proof of the entry of such Book or Engraving in the said Book of Registry, and of the printing or engraving thereof, without the consent of the registered Proprietor and of demand in writing made of the party in whose possession such copies shall be, to issue their warrant for the seizure of such copies and for the delivery thereof to such complainant: Provided always, That such warrant shall not be holden conclusive as against the possessor of such copies of his right to the same, but that he may question the right to issue such warrant in any action of Trespass to be brought against the party on whose complaint such warrant shall be granted: Provided always, That no action shall be brought against any Justice, Constable or officer acting *bonâ fide* in the execution of the powers of this Act.

29.

No Proprietor of
Copyright commenc-
ing after the Act,
shall sue or proceed
for any infringement
which shall take
place before entry
in the Book of
Registry.

And be it Enacted, That no Proprietor of Copyright in any Book or Engraving which shall be first published after the *passing of this Act*, shall have or maintain any action or suit at law or in equity, or any summary proceeding for or in respect of any infringement of such Copyright, unless he shall, before such alleged infringement, have caused an entry to be made in the Book of Registry of the Stationers' Company of such Book or Engraving pursuant to this Act: Provided always, That the omission to make such entry shall not affect the Copyright in any Book or Engraving, but only the right to sue or proceed in respect of the infringement thereof: Provided also, That nothing herein contained shall prejudice the remedies which the Proprietor of the sole liberty of representing any Dramatic Piece shall have, by virtue of the Act of His present Majesty, to amend the laws relating to Dramatic Literary Property, although no entry shall be made of the same in the Book of Registry aforesaid.

Proviso for Dramatic
Pieces.

And

AND whereas a doubt has arisen whether a Spiritual Person having or holding any dignity, prebend, canonry, benefice, stipendiary, curacy or lectureship, and being the Author of any Book, may lawfully sell and dispose of the Copyright thereof, or any Copies thereof, and it is expedient to remove such doubt; BE it Enacted, That every Spiritual Person, being the Author of any Book, may lawfully sell and dispose of the Copyright of the same, or of any Copies thereof, for his own profit, any law or usage to the contrary notwithstanding.

30.
Clergymen may lawfully dispose of Copyright or copies of Books of which they are the Authors

And be it Enacted, That all Copyright shall be deemed personal property, and shall be transmissible by bequest, or, in case of intestacy, shall be subject to the same law of distribution as other personal property.

31.
Copyright shall be personalty.

Provided always, and be it Enacted, That nothing in this Act contained shall extend or be construed to extend to affect or alter the rights of the two Universities of Oxford and Cambridge, the Colleges or Houses of Learning within the same; the four Universities in Scotland; the College of the Holy Trinity in Dublin, and the several Colleges of Eton, Westminster and Winchester, in any Copyrights heretofore and now vested or hereafter to be vested in such Universities and Colleges respectively, any thing to the contrary herein contained notwithstanding.

32.
Saving the rights of the Universities and the Colleges of Eton, Westminster and Winchester.

And be it Enacted, That this Act shall extend to the United Kingdom of Great Britain and Ireland, and to every part of the British Dominions.

33.
Act to extend to all parts of the British Dominions.

And be it Enacted, That this Act may be amended, altered or repealed by any Act or Acts to be passed in this present Session of Parliament.

34.
Act may be amended or repealed during the present Session.

SCHEDULE TO WHICH THE PRECEDING ACT REFERS.

— No. 1.—

ORIGINAL ENTRY OF PROPRIETORSHIP OF COPYRIGHT OF A BOOK OR ENGRAVING.

Time of making the Entry.	Title of Book or Engraving.	Name of the Publisher, and Place of Publication.	Name and Place of Abode of the Proprietor of the Copyright.	Date of First Publication.	Statement of any partial Interest to which the right of the Proprietor is subject, or License by him granted.
1st Sept. 1837.	-- [Here set out the title of the Book or Engraving.]	William Smith, of Piccadilly, London.	Henry Williams, of Edinburgh, Esquire.	1st September 1837.	-- Henry Williams, the Proprietor of the Copyright, has assigned the same to William Smith, of Piccadilly, London, Bookseller and Publisher, for the term of <i>Seven</i> Years—[or, if a License be granted only for an Edition]—Henry Williams, the proprietor of the Copyright, has granted to William Smith, of Piccadilly, London, Publisher, his License to publish an Edition of 2,000 Copies of the said Book [or, Engraving].

— No. 2. —

FORM of CONCURRENCE of the PUBLISHER of a Book (whether first published in the British Dominions or Abroad,) or ENGRAVING, first entered to be signed by him, and delivered to the Office of the Stationers' Company previous to such Entry.

I, A. B., of
do hereby certify, That I am [or, are about to be] the Publisher of a Book [or, Engraving] entitled [here set out the title of the Book or Engraving], and that
I concur in the entry to be made thereof in the Registry Book of the Stationers' Company, according to the particulars hereunder written. Dated this
18 day of A. B. [Here set forth the proposed Form of the Entry.]

— No. 3. —

FORM of ENTRY of ASSIGNMENT of COPYRIGHT in any BOOK or ENGRAVING previously registered.

Date of Entry.	Title of Book or Engraving.	Assigner of the Copyright.	Assignee of Copyright.	Extent of Assignment.
1st Sept. 1837	-- [Set out the title of the Book or Engraving, and refer to the page of the Registry Book in which the original entry of the Copyright thereof is made].	-- Henry Williams, of Edinburgh, Esquire.	-- George Jones, of Cheapside, London, Bookseller and Publisher.	-- Henry Williams, the registered Proprietor of the Copyright in [setting out the title of the Book or Engraving] hath assigned all his Copyright and interest [or, in case of a partial assignment, the sole right of printing and publishing the same for <i>Seven Years</i>] in [setting out the title of the Book] to George Jones [or, in case of license to publish an Edition, Henry Williams licensed George Jones, of Cheapside, London, Bookseller and Publisher, to print, publish and sell an edition of 2,000 copies of the said Book [or, Engraving]].

B 4

— No. 4. —

FORM of ENTRY of a BOOK published in FOREIGN PARTS, to secure the COPYRIGHT in the BRITISH DOMINIONS.

Date of Entry.	Title of Book, and Date and Place of Publication.	Name of Author or Assignee of Copyright making the Entry.	Name and Place of Abode of the intended Publisher.
1st January 1838	[Set out the title of the Book.] Boston, United States of America. 1st September 1837.	-- James Evans, of Boston, in the United States of America, Esquire, Author [or, William Smith, of Piccadilly, London, the assignee of the Copyright in the British Dominions].	-- William Smith, of Piccadilly, London.

Copyright.

A

B I L L

To consolidate and amend the Laws relating to
Copyright in Printed Books, Musical Com-
positions, Acted Dramas and Engravings,
to provide Remedies for the Violation
thereof, and to extend the Term of its
Duration.

(Prepared and brought in by
Mr. Serjeant Talfourd, Mr. Chancellor of the
Exchequer, Lord Viscount Mahon, and Sir
Robert Harry Inglis.)

Ordered, by The House of Commons, to be Printed,
6 June 1837.

11 May 1837.—7 WILL. IV.



A

B I L L

To admit Foreign Corn to be ground in Mills under the Lock of the Crown, and manufactured therein for Exportation only.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

WH **H**EREBY it is expedient to admit Foreign Corn with-
out payment of Duty to be ground for Exportation
under the Lock of the Crown; **B**E it therefore **E**nacted, by The
KING's most Excellent MAJESTY, by and with the Advice and
Consent of the Lords Spiritual and Temporal, and Commons, in
this present Parliament assembled, and by the Authority of the
same, THAT upon the application to the Commissioners of His Ma-
jesty's Customs of any persons actually carrying on the business of a
Miller in or near the Ports of London, Liverpool, Bristol, Hull,
Poole, Plymouth, Greenock, Glasgow, Dublin, Cork, Waterford and
Belfast, or any other Port, to be approved of by any *Three* of the
Commissioners of His Majesty's Treasury, it shall be lawful for the
Commissioners of His Majesty's Customs by their order to approve
of such premises as Bonded Mills for the grinding of Corn for ex-
portation only, on its being made appear to the satisfaction of the
said Commissioners that the said premises are fit in every respect
for receiving such Corn, and wherein the same may be safely
deposited.

Preamble.

1.
Commis-
sioners of
Customs, with
sanction of
the Treasury,
may approve
of Premises
for grinding
Foreign Corn
for Exporta-
tion.

And be it Enacted, That on the approval of any premises
as Bonded Mills as aforesaid, it shall be lawful for the Commis-
sioners of the Customs at the Ports respectively where such premises
are situated, to deliver, without payment of Duty to the party or
parties so applying as aforesaid, on entry with the proper Officer
of the Customs, any quantity of Foreign Corn for the purpose of
being there ground and made into Flour or Biscuits under the Locks
of the Crown for exportation only, and that the Corn so delivered

2.
Commis-
sioners of
Customs may
deliver Fo-
reign Corn to
be ground on
such approved
Premises
without pay-
ment of Duty.

shall be lodged and secured in such premises, under such conditions, regulations, and restrictions as the said Commissioners shall from time to time direct: Provided always, That it shall be lawful for the said Commissioners by their order to revoke or alter any former order of approval of any such premises.

5

3.
Owner or
Occupier of
Premises
where Corn is
ground to give
Bond.

And be it further Enacted, That upon entry of Corn to be ground on any premises approved of under the authority of this Act, the Miller on whose premises the same is to be ground, shall give bond to the satisfaction of the Officers of the Customs in the penalty of

10

with a condition that the whole of such Corn should be actually ground on the said premises, and that within

Months from the date of such Bond, the whole of the Flour and Biscuit produced from such process shall be either exported from the said premises, or delivered into an approved Bonded Warehouse under the Locks of the Crown, for the purpose of being eventually exported to Foreign parts, and that the offal should be either exported or delivered to the Commissioners of His Majesty's Customs, to be disposed of as they may order and direct.

15

4.
Act may be
altered.

And be it Enacted, That this Act may be altered or amended by any Act to be passed during the present Session of Parliament.

Bonded Corn Manufacture.

B
I
L
L

To admit Foreign Corn to be ground in Mills under the Lock of the Crown, and manufactured therein for Exportation only.

*(Prepared and brought in by
Mr. Robinson and Mr. Warburton.)*

Ordered, by The House of Commons, to be Printed,

11 May 1837.

23 June 1837.—1 VICT.



A

B I L L

For regulating the Coroners of the County of Durham.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

W^{*HEREAS*} by an Act passed in the last Session of Parlia- Preamble.
ment, intituled, “An Act for separating the Palatine
Jurisdiction of the County Palatine of Durham from the Bishopric of
Durham,” the Palatine Jurisdiction, power and authority heretofore
5 vested in and belonging to the Bishop of Durham, was separated from
the Bishopric of Durham, and was transferred to and vested in his late
Majesty King WILLIAM the Fourth, his heirs and successors : And
whereas previously to the passing of the said Act the Coroners for
the said County of Durham were appointed by the said Bishop, and it
10 is necessary that provision should be made for the future appointment
of the Coroners of the said County, and for their due remuneration ;
~~BE it therefore Enacted~~, by The QUEEN’s most Excellent MAJESTY,
by and with the Advice and Consent of the Lords Spiritual and Tem-
poral, and Commons, in this present Parliament assembled, and by the
15 Authority of the same, **THAT** the present Coroners of the four Wards,
respectively called Easington Ward, Chester Ward, Stockton Ward, and
Darlington Ward, in the said county of Durham, shall continue Coroners
of the same Wards respectively during their respective lives, or so long as
they shall respectively well behave themselves ; and that upon and after
20 the death, removal or resignation of the Coroner either of Easington
Ward or of Chester Ward (which two Wards form the Northern Division
of the said county of Durham) a Coroner shall be chosen for each of
such Wards in the place of the Coroner making a vacancy, and so from
time to time on every future vacancy of the office of Coroner of either
of the said Wards ; the Coroner of each of the said Wards to be chosen
by

1.
Coroners.

by its own freeholders, in like manner as Coroners are chosen in the case of other counties or divisions of counties in England; and that after the death, removal or resignation of the Coroner either of Stockton Ward or of Darlington Ward (which two Wards form the Southern Division of the said county of Durham) a Coroner shall be chosen for each of such last-mentioned Wards in the place of the Coroner making a vacancy, and so from time to time on every future vacancy of the office of Coroner of either of the said last-mentioned Wards; the Coroner of each of such Wards to be chosen by its own freeholders, in like manner as Coroners are chosen in the case of other counties or divisions of counties in England: Provided always, That on every vacancy of the office of Coroner in any of the said Wards, and until the appointment of another Coroner in his place, it shall be lawful for any of the remaining Coroners to act as Coroner for the Ward in which such vacancy may have occurred.

2.
Coroners
liable to be
removed.

And be it Enacted, That the Coroners of the said County of Durham shall be liable to be removed from their respective offices, in the same manner as Coroners of the other Counties in England and Wales.

3.
Coroners to
be entitled to
usual fees and
emoluments,

And be it Enacted, That from and after the *passing of this Act*, the Coroners of the said county of Durham shall be entitled to all the same fees and emoluments as the Coroners of the other counties in England and Wales; and so much of an Act passed in the twenty-fifth year of the reign of his Majesty King GEORGE the Second, intituled, "An Act for giving a proper Reward to Coroners for the due execution of their Office, and for the removal of Coroners on lawful conviction of certain Misdemeanors," as provides that no Coroner of the County Palatine of Durham shall be entitled to any fee, recompense or benefit given to or provided for Coroners by that Act, shall be and the same is hereby repealed.

Coroners (Durham.)

A

B I L L

For regulating the Coroners of the County
of Durham.

(Prepared and brought in by
Mr. Attorney General and Mr. Solicitor
General.)

Ordered, by The House of Commons, to be Printed,
23 June 1837.

1 May 1837.—7 WILL. IV.



A

B I L L

To provide for Payment of the Expenses of holding Coroners' Inquests.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

- W** **H** **E** **R** **E** **A** **S** the holding of Coroners' Inquests on dead bodies is attended with divers necessary expenses, for the payment whereof no certain provision is made by law, and such expenses have usually been discharged without any lawful authority for that purpose out of the Monies levied for the Relief of the Poor, and it is expedient to make adequate Legal Provision for the payment of such expenses; **B** **E** **i** **t** **t** **h** **e** **r** **e** **f** **o** **r** **e** **n** **a** **c** **t** **e** **d**, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, **T** **H** **A** **T** whenever any Inquest shall be holden on any dead body, the Coroner holding the same shall advance and pay all such reasonable sums as have usually been paid to the Constable or other person giving notice to the Coroner holding such Inquest, and to the Constable or other person summoning the Jury, and to the Jurors attending such Inquest, and also when required shall pay a reasonable sum by way of remuneration for the use of any room or other place where such Inquest shall be holden, and of any room or other place where the dead body on which such Inquest shall be taken shall have been deposited: And it shall be lawful for the Treasurer of the County, Riding or Division within which such Inquest shall be holden, and he is hereby required to pay to such Coroner, out of the County Rates, all sums which he shall so advance and pay, and all other expenses heretofore usually paid and allowed, and which shall have been properly incurred in and about the holding of any such Inquest: Provided always, That nothing herein contained
- Preamble.
1.
Coroner to pay necessary Expenses of holding Inquests.
- 262.

tained shall be deemed or taken to affect an Act passed in the last Session of Parliament, intituled, "An Act to provide for the Attendance and Remuneration of Medical Witnesses at Coroners' Inquests."

2.
Coroner to
lay before
Justices at
Petty Sessions
an Account
of Expenses
incurred.

And be it Enacted, That before any such payment shall be made by such Treasurer, the Coroner shall lay or cause to be laid before *Two* or more Justices assembled at some Petty Sessions to be holden in and for the Division in which such Inquest shall have been holden, a full and true account in writing of all such expenses as aforesaid, accompanied by proper vouchers for the same; and such Justices may, if they shall think fit, examine such Coroner on oath as to all or any of the items of such account; and such Justices, if satisfied of the correctness of such account, or any *Two* of such Justices, shall sign the said account in testimony of their approbation and allowance thereof, and shall thereupon make an order on the said Treasurer for payment of the sum which they shall so find to be due to the said Coroner, and such order shall be a sufficient voucher and authority to the said Treasurer for making the payment thereby directed.

3.
Act may be
altered.

And be it Enacted, That this Act may be altered or repealed by any other Act in this present Session of Parliament.

Coroners' Inquests Expenses.

A

B I L L

To provide for Payment of the Expenses of holding Coroners' Inquests.

(Prepared and brought in by

Mr. Solicitor General and Mr. Attorney General.)

Ordered, by The House of Commons, to be Printed,
1 May 1837.

9 June 1837.—7 WILL. IV.



A

B I L L

[AS AMENDED BY THE COMMITTEE]

To provide for Payment of the Expenses of holding Coroners' Inquests.

[N.B.—The Clauses marked (A.), (B.) and (C.) were added by the Committee.]

- W**H **H**EREBY AS the holding of Coroners' Inquests on dead bodies is attended with divers necessary expenses, for the payment whereof no certain provision is made by law, and such expenses have usually been discharged without any lawful authority for that purpose out of the monies levied for the relief of the poor, and it is expedient to make adequate legal provision for the payment of such expenses; **B**E it therefore Enacted, by The KING's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, **T**HAT the Justices of the Peace for every county, riding, division or district in England and Wales, in Quarter Sessions assembled, shall at the Quarter Sessions of the Peace to be holden next after the passing of this Act, or at some subsequent Quarter Sessions, and the Town Council of every borough having a Coroner, shall at the quarterly meeting of such Council which shall be holden next after the passing of this Act, or at some subsequent quarterly meeting thereof, make or cause to be made a Schedule of the several fees, allowances and disbursements which, on the holding of any Inquest on any dead body within such county, riding, division, district or borough, may be lawfully paid and made by the Coroner holding such Inquest (other than the fees payable to medical witnesses under and by virtue of an Act passed in the last Session of Parliament, intituled, "An Act to provide for the Attendance and Remuneration of Medical Witnesses at Coroners' Inquests"); and it shall be lawful for such Justices in Quarter Sessions assembled, and for such Town Council at any such quarterly meeting
- Preamble.
1.
CLAUSE (A.)
Schedule to be
made of Fees
payable on
holding In-
quests.
- 318.

meeting as aforesaid, from time to time to alter and vary such Schedule as to such Justices and Town Council respectively may seem fit; and the said Justices and Town Council respectively shall cause a copy of every such Schedule to be deposited with the Clerk of the Peace of such county, riding, division, district or borough, and one other copy thereof to be delivered to every Coroner acting in and for such county, riding, division, district or borough as aforesaid; and whenever any Inquest shall be holden on any dead body, the Coroner holding the same shall advance and pay all expenses reasonably incurred in and about the holding thereof, not exceeding the sums set forth in the said Schedule, and which sums so advanced and paid, shall be repaid to the said Coroner in manner hereinafter mentioned: Provided always, That until such Schedule as aforesaid shall have been made, the Coroner shall advance and pay, at his discretion, all reasonable expenses of holding every Inquest within the limits of his jurisdiction, and shall be repaid the amount thereof in the same manner as if the sums so paid had been included in a Schedule duly made according to the provisions of this Act.

2.

CLAUSE (B.)
Coroners to
pay Medical
Witnesses.

6 & 7 W. 4.
c. 89.

And be it Enacted, That so much of the said Act passed in the last Session of Parliament as directs the Coroner to make out an Order on the Churchwardens and Overseers of the parish in which any death shall have happened, for payment of the remuneration or fee payable under the provisions of that Act to any medical practitioner, and as directs such Churchwardens and Overseers to pay the same out of the funds collected for the relief of the poor of such parish, shall be and the same is hereby repealed; and in lieu thereof, it is hereby Enacted, That the Coroner shall advance and pay such remuneration or fee to every medical witness summoned under the provisions of the said Act, and the amount thereof shall be repaid to the said Coroner in manner hereinafter mentioned.

3.

CLAUSE (C.)
The Coroner
to be repaid
out of the
County Rates
or the Bo-
rough Fund:

And be it Enacted, That every Coroner acting in and for any county, riding, division or district, shall from time to time cause a full and true account of all sums paid by him under the provisions of this Act, including all sums paid to any medical witness as aforesaid, to be laid before the Justices of the Peace of such county, riding, division or district, in Quarter Sessions assembled; and every Coroner of any borough shall from time to time cause a full and true account of all sums paid by him under the provisions of this Act, including as aforesaid, to be laid before the Town Council of such borough; and all such accounts shall be accompanied by such vouchers as, under the circumstances, may to such Justices or Council respectively seem reasonable; and such Justices or Council respectively may examine the said Coroner on oath as to such account, and on being satisfied of the correctness thereof, such Justices or Council

Council respectively shall make an Order on the Treasurer of the
 said county, riding, division or district, or of the said borough (as
 the case may be), for payment to the said Coroner, not only of the
 sum due to him on such account, but also of a sum of Six Shillings
 5 and Eight-pence for every Inquest holden by him as aforesaid, over
 and above all other fees and allowances to which he is now by law
 entitled; and the Treasurer of any county, riding, division or dis-
 trict on whom any such Order shall be made shall, out of the monies
 in his hands arising from the County Rates, and the Treasurer of
 10 any borough on whom any such Order shall be made shall, out of
 the monies in his hands on account of the Borough Fund, pay to the
 said Coroner the sum mentioned in such Order, without any abate-
 ment or deduction whatever; and every such Treasurer shall, on
 passing his accounts, be allowed all sums which he shall pay in pursu-
 15 ance of any such Order as aforesaid.

And be it Enacted, That this Act may be altered or repealed
 by any other Act in this present Session of Parliament.

4.
 Act may be
 altered.

Coroners' Inquests Expenses.

A

B I L L

[AS AMENDED BY THE COMMITTEE]

To provide for Payment of the Expenses of
holding Coroners' Inquests.

(Prepared and brought in by
Mr. Solicitor General and Mr. Attorney General.)

*Ordered, by The House of Commons, to be Printed,
9 June 1837.*
